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POLITICAL SCIENCE QUARTERLY.

A RETROSPECT.

WITH the present number the POLITICAL SCIENCE QUARTERLY completes the tenth year of its existence. In science a decade is not a great period; in the life of a periodical devoted to science, it is of considerable significance. The first decennial period, in particular, gives an answer to some important questions. At its successful conclusion the publication may be presumed to have vindicated its right to existence. Its growing pains are matters of the past, and an untroubled career of mature usefulness may be confidently anticipated. In congratulating themselves upon the attainment of this desirable situation, the editors deem it interesting and possibly instructive to glance backward over the work of the decade and note some of its salient features.

The field which the QUARTERLY undertook to cover was a wide one, as was fully realized at the inception of the enterprise. The work to be done, moreover, was, from the point of view of periodical literature, that of the pioneer, at least in the English language. It was a most convincing evidence of sound judgment in thus entering the field that our example was quickly followed by others. The end of the decade shows a considerable number of periodicals under university auspices, exploiting the scientific ground where at the beginning the POLITICAL SCIENCE QUARTERLY worked alone. These later ventures have been devoted, however, less to political science in general than to various special branches which are grouped under this term. The resulting development of the subject

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has naturally increased the task of the periodical which seeks to do justice to all phases of it. Hence, wide as was the QUARTERLY'S field at the outset, it is wider still to-day. For example, from that once tolerably well-defined corner of the field designated as political economy, we now have radiating off areas of vast and indefinite dimensions under the names of finance, statistics and sociology. Public law, having differentiated into international, constitutional and administrative, now calls for special treatment of the problems of municipal government. Politics, holding its own in the thought of the time on the side of the general theory of the state (*Allgemeine Staatslehre*), is manifesting especial activity, due to the great development of political consciousness among the peoples, on the side of practical policy (*Politik*).

In this great and growing field of political science — or of the political sciences, if the plural be preferred — it is interesting to see, from a review of the subjects treated, what the QUARTERLY has done. It has been our avowed aim to treat from a scientific standpoint the questions of chief contemporary interest. A review of the subjects dealt with in our leading articles should, therefore, serve in some sort as an indication of the course of political and social history for the decade. The total number of leading articles in the ten volumes, exclusive of the Record of Political Events, is something less than two hundred and fifty. No classification of these could be more than rough and general; since few of the subjects lie exclusively in a single field. For the present purpose it is sufficient to group them under the three categories of politics, economics and law: including under politics both political theory and that residuum of practical questions which is not easily assignable to either economics or law; including under economics, topics of public and private finance, statistics and sociology; and coupling with public law discussions of jurisprudence and of general legal philosophy. On this basis it appears that rather more than one hundred of the leading articles have treated of economics, about eighty of law, and about sixty of politics. The relation of these numbers corresponds to the common observation that

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in the range of political science topics of economic and social import at present hold by far the leading place in both popular and scientific interest. This is true of both America and Europe. The secondary position of legal subjects points to a condition that is especially characteristic of America, namely, the waning importance of constitutional questions. That the legal category holds the second rather than the third place in our list is probably due to the development of administrative law — a science within whose range fall many of the most vital problems of the day in the United States, particularly those of municipal government. As to the third category, the first of the elements of which it is made up, pure political theory, is quite alien to the American genius, which tends to scorn ultimate philosophy; while the second and residual element has been minimized by the policy of the QUARTERLY. Under this last head falls the work of the periodical in the field of history. Without pretending to take sides in the perennial debate as to whether history is or is not a science, we have practically limited our pages to such historical contributions as have had for their end rather the illustration of some phase in the development of institutions than the mere presentation of the truth about past events.

The contents of the first volume of the QUARTERLY very naturally indicate a process of orientation. Especially on the side of public law and politics, topics of recent or contemporary interest exhibit in their discussion the policy that is to be pursued and at the same time put the periodical abreast of events. Thus for our own land we find a general view of the constitutional position of our states in reference to the nation; an account of the constitutional questions during the Civil War; an examination of the legal questions connected with legislative investigating committees, suggested by recent proceedings of the New York legislature; and a defense of the supreme court's late decision on the legal-tender question in Juilliard *vs.* Greenman. For foreign nations, the recent Conference of Berlin on the Congo question is discussed, the then lately settled constitutional struggle in Norway is described,

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and an elaborate account is given of the course of events which had only a short time before drawn world-wide attention to Egyptian affairs. The justification for this selection of topics is gratifyingly strong when we reflect that both the African and the Norwegian articles are almost indispensable to an intelligent grasp of questions that are prominently before the public yet to-day. On the economic side, also, the list of topics treated testifies to the persistency of issues through the decade. The labor question, socialism, bimetallism and the future of our banking system are as conspicuous now as they were when the QUARTERLY put forth its first number.

In the second volume we find the practical questions of the time reflected in studies of the Interstate Commerce Law and of that test of strict constructionist consistency — the Oleomargarine Law. With the third volume (1888) President Cleveland's famous new departure on the tariff question finds an echo in articles on the tariff of 1828 and on surplus revenue, and the immigration evil receives elaborate treatment. The beginnings of the movement which has revolutionized our method of balloting are indicated by a study of the ballot in England. Most striking of all, however, is the fact that three of the four numbers in this volume contain articles on trusts. It is clear without consultation of official records, that this is the year which marks the full development of the great controversy over this novel method of industrial combination. In the field of foreign affairs, this volume recalls the tragic incident of Frederick III's brief reign by a study of the powers of the German Emperor, and the profound modification of English local government by an account of the bill for the establishment of county councils.

The most conspicuous group of subjects in the fourth, fifth and sixth volumes is that touching matters of particular concern to the great agricultural region of our country. Farm mortgages, railroad land-grants, the general relations of railways to the farmers — all receive attention, and in 1891 an elaborate account of the Farmers' Alliance indicates the general interest in that great ebullition, of which the sole reminder

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to-day is the dying simmer of "populism." Questions of taxation are also prominent in these volumes, especially the taxation of corporations. Other studies of corporations in various aspects reflect the sentiment which the socialistic element in the farmers' movement has awakened. An important phase of the immigration question is suggested by an analysis of the element contributed by Italy, as well as by an examination of the national government's responsibility in cases like the lynching of Italians in New Orleans in 1891. Other articles bring to mind the final attainment of international copyright, and the controversy, then raging but now happily ended, in reference to New York's constitutional convention. The character and defects of the national accounting system were considered by different writers in 1891 and 1892, and reforms were suggested which have been actually effected through the recent work of the Dockery Commission.

The events suggested by a glance over the contents of the last four volumes are to a great extent still fresh in the memory. This is certainly true of the anti-option discussion — which was treated by the QUARTERLY first in 1892, of the panic of 1893, of the latest tariff and of the income tax. On the other hand, our relations with the South American republics, especially the controversy with Chili, have faded further into the background, whither the still undissolved monetary conference seems to be rapidly following them. A topic which is apparently destined to grow rather than wane in importance is that of municipal home rule, especially as involved in the relations of New York city to the state; and this topic has found a conspicuous place in our last two volumes. As to the foreign world we have been able to publish systematic studies of Irish land legislation, culminating with Mr. Balfour's great act of 1891; of the general transformation of commercial relations among the powers, stimulated by the "new course" adopted in Germany after Bismarck's fall; of the workings of parliamentary government in Italy; and of the recent remodeling of the Belgian constitution.

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The foregoing review seems to indicate that the QUARTERLY has fairly fulfilled its purpose to treat events of current interest. That its general attitude toward history has not altogether precluded attention to the great events of the past, is also readily demonstrable. Our own political and constitutional history, in particular, has received noteworthy treatment. Besides a number of important studies of colonial and revolutionary ideas and events, and estimates of our early statesmen, there have appeared no less than twelve articles on various phases of the issues involved in the Civil War.

But the scientific consideration of topics of current interest is but one side of the QUARTERLY'S activity. The development of science in the more abstract forms has also been always within its scope. At least one-sixth of all the articles published during the decade have fallen clearly in the category of political, economic or legal theory; and this number is exclusive of the book reviews, in which, through analysis and criticism, by far the larger contributions to theory have been made. In leading articles have been discussed such subjects as the limits and persistence of competition; the modern theory of profits and wages; the basis and general theory of taxation; the relations of statute and common law; the theory of sovereignty and its special application to the United States; the theory and methods of statistics; the scientific character and divisions of sociology; the social-contract theory of the state; and the relation of the executive and the judicial departments of government. A partial list of the works that have been deemed worthy of review in leading articles will illustrate not only the degree of the QUARTERLY'S activity, but also the trend of scientific literature during the decade:

Von Holst's Public Law of the United States.
Laband's German Public Law.
Bryce's American Commonwealth.
Wells's Recent Economic Changes.
Booth's East London.
Marshall's Principles of Economics.
Cunningham's Growth of English Industry.

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Booth's In Darkest England.
Boehm-Bawerk's Capital.
Bastable's Public Finance.
Levasseur's La Population Française.
Campbell's Puritan in Holland, England and America.
Ashley's English Economic History.
Argyll's Unseen Foundations of Society.

In the special department of Reviews and Book Notes the QUARTERLY has noticed during the decade something over a thousand publications. The literary activity of recent years in the social and political field has been a matter of common remark; but despite this great activity it seems *a priori* probable that with its average of a hundred works reviewed annually, the QUARTERLY has brought to the attention of its readers practically everything of scientific value in the output of the decade. Rather more than one-third of the volumes noticed were in languages other than English. Among the non-English works the German were most numerous, with the French in the second and the Italian in the third place. The Dutch, the Spanish and the Portuguese literatures have also been represented. As to subject-matter the books reviewed manifest the same predominance of social and economic topics that has been noted as characterizing the leading articles.

In respect to the *personnel* of the body of contributors, the scientific scope and purpose of the QUARTERLY would justify a presumption that a great majority of those who have written for it would be found in the ranks of college and university instructors. Especially probable would this seem in view of the notable development of the university spirit of research in America during recent years. In the department of Reviews the presumption proves well founded. Here a very considerable majority of our contributors have been connected with institutions of higher education. The development of theory, which has been referred to as a particular function of the reviews, has been thus, very properly, for the most part in the hands of the scientists pure and simple. But of our leading articles fully one-half have been contributed by writers outside

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the ranks of educators. The pulpit, the bar and the daily and weekly press have been represented, with especially happy results in throwing light on topics of current interest; while from the departments of our national administration at Washington have come valuable studies of governmental practice. Some fifteen per cent of the leading articles have been contributed by foreigners — the British element being most conspicuous, with France, Germany, Italy, Belgium and Switzerland represented. In the matter of contributors the editors have striven to avoid falling into a narrow rut. They have felt it to be for the advantage of their periodical, as well as of political science, to welcome useful matter from the widest possible range of sources; and it is with some gratification that they are able to point out that thus far no number of the QUARTERLY has failed to present at least one leading article by a writer new to its pages.

In conclusion, it would be not only ungracious, but unjust, in a review of the factors that have made the QUARTERLY what it is, to omit reference to the publishers. The evidences of their cordial coöperation lie on the surface. And were this the appropriate occasion, their part in the career of the publication might afford a striking lesson as to the power that can arise from a proper combination of pure science, mechanical art and mercantile enterprise.

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THE TREASURY RESERVE AND THE BOND SYNDICATE.

THE undertaking known as the "bond-syndicate contract" with the United States government was the most interesting financial episode of 1895. Politically and commercially, its results were and still are far-reaching. Economically, it was so remarkable an experiment, so absolute a departure from the beaten track of precedent, that it merits particularly thorough examination. To such examination it is my purpose to subject the episode. I shall take nothing for granted, shall admit no statement of fact unless from the first authority, and shall use no logic which prejudice, economic or political, can reject.

The experiment of 1895, however, can neither be understood nor properly criticised until the situation which made it possible has been investigated. This is no slight pre-requisite; for it involves the financial history of our government since resumption, and that history has not yet been written.[1] The facts must be gathered from the trade reports, the market quotations, the executive documents and the Congressional proceedings of the last seventeen years. I shall undertake, however, to sketch concisely the essential incidents of this very interesting period, and to discuss in detail several episodes which bear directly on our subject.

I.

The first questions to answer are: How comes our government to be issuing bonds in time of peace? And by what authority is such issue left to executive discretion?

On the 14th of July, 1870, was approved a law for the refunding of the national debt. It authorized, purely for retirement of older high-rate bonds, new bond issues of various

[1] The last volume of Mr. Bolles's excellent work carries the history only to 1879.

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classes, not in the aggregate to exceed $1,500,000,000.[1] Five years later, in January, 1875, a further statute was enacted providing for redemption of government notes in coin on and after January 1, 1879. The concluding paragraph of this statute may profitably be cited here in full:

> And to enable the Secretary of the Treasury to prepare and provide for the redemption in this act authorized or required, he is authorized to use any surplus revenues, from time to time, in the Treasury not otherwise appropriated, and to issue, sell, and dispose of, at not less than par in coin, either of the descriptions of bonds of the United States described in the Act of Congress approved July 14, 1870.[2]

This paragraph is clear in terms, and it was clearly discussed and understood before adoption. Additional bond sales, it will be observed, are authorized to enable the secretary "to prepare and provide," not alone for resumption at a stated date, but for redemption "from time to time" of all outstanding notes tendered for coin. The distinction is important, chiefly because of a notion prevalent in some minds that the "bond clause" of the statute was not designed to operate after January 1, 1879. Such an idea has as little basis in the language of the act as it has in common sense. So long as redemption of outstanding notes should continue to be a statutory requirement, and any notes remained outstanding, the framers of the law were perfectly well aware that provision for such redemption, with everything therein legally involved, must continue to be the secretary's duty. And that there might be no misunderstanding as to the condition, Congress in 1878 voted that all notes then outstanding should, when redeemed, be continuously reissued by the Treasury. When reissued, they necessarily became again redeemable under the Act of 1875.[3]

[1] Laws of the United States, 41st Congress, second session, chap. cclvi. By a later amendment the authorized issue was raised to $2,000,000,000.

[2] Laws of the United States, 43d Congress, second session, chap. xv, January 14, 1875.

[3] The power to sell bonds for redemption purposes on future occasions of necessity was publicly asserted by the administration in 1879 and 1880, and was never

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Nothing as yet is said in any of these statutes regarding the amount or character of the redemption fund. In recent years the "hundred-million gold reserve" has become the most familiar term in American finance. So long as the Treasury's surplus gold fund has held above $100,000,000, the public mind has been generally easy; when the gold has fallen below that level, misgivings and market disturbances have at once begun. Every recent bond issue, moreover, has been plainly so contrived as to restore an impaired reserve to the neighborhood of this arbitrary sum. One hundred million dollars gold, then, has not only been what Bagehot aptly called the "apprehension minimum," but it has plainly been accepted for a legal minimum as well. Let us see how this limit was determined.

In 1882 the gold reserve for the first time appeared by name in a statute of the government.[1] By its title a national-

disputed. Secretary Sherman wrote officially: "It would be only in an emergency not easy to foresee, and not likely to arise, that the power to sell bonds for redemption purposes would be exercised, but it should be preserved." Annual Treasury Report, 1879. And again, a year later: "In a supreme emergency, the power granted to sell bonds will supply any possible deficiency." Annual Treasury Report, 1880. In 1892 the question was expressly referred by the House of Representatives to its judiciary committee. The majority and minority of this committee differed in their reports on the question of a gold reserve. But the majority report says of bond sales: "There is no limitation upon the authority of the Secretary of the Treasury to sell bonds for the purposes of redemption under this act"; and the minority report: "This act contemplated a sale of bonds from time to time in excess of immediate need for redemption purposes, so that an available or reserve fund should be constantly on hand." *Cong. Record*, July 6, 1892.

[1] Secretary Sherman's earnest appeal to Congress, "that by law the resumption fund be specifically defined and set apart," Annual Treasury Report, 1879, received no attention whatever. Four months after resumption, in answer to a resolution of inquiry from the Senate, Mr. Sherman stated that he was carrying in the Treasury $138,000,000 coin, or forty per cent of liabilities — "believed to be the smallest reserve upon which resumption could be prudently commenced and successfully maintained." Of this amount $95,500,000 was gold provided from resumption sale of bonds, "which must, under existing law, be maintained unimpaired for the purpose for which it was created." Letter to the president of the Senate, May 16, 1879. Both these opinions were officially concurred in by Secretary Folger (Annual Treasury Report, 1881) and by Secretary McCulloch (Annual Treasury Report, 1884). It is worth noticing that forty per cent of outstanding United States notes, which in 1879 was $138,000,000, would to-day be $199,000,000. Secretary Foster raised this point three years ago, arguing for an increase in the gold reserve's legal minimum to $125,000,000 (Annual Treasury Report, 1892).

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bank charter act, this law in its final paragraph provides for the deposit of gold and silver with the government in exchange for Treasury certificates. This was indeed the act embodying the famous Congressional retort to the efforts of New York City banks to exclude silver certificates from their reserves.[1] But by the irony of fate, often involved in legislative compromise, the very next clause established the "hundred-million gold reserve." "Provided," the act concludes,

> that the Secretary of the Treasury shall suspend the issue of such gold certificates whenever the amount of gold coin and gold bullion in the Treasury reserved for the redemption of United States notes falls below $100,000,000.[2]

In the Congressional debate, the purport of this paragraph was clearly recognized.[3] Under its terms, with the gold reserve intact, the certificates, "when received" in payment of public dues, "shall be reissued." The only possible object of a suspension of their issue when the reserve passed below $100,000,000, was to restore that arbitrary sum. It was apparently presumed that if the reserve fund were to sink below $100,000,000, the gold certificates would continue to be received in revenue, and not being reissued, would release a corresponding amount of gold coin pledged against them. When the reserve, eleven years later, actually passed the arbitrary line, a very different state of things ensued. But none the less, the law defined the gold fund's minimum. It was formally so construed in the treasurer's report of 1884, and the rule has been accepted by all subsequent administrations.[4]

[1] This clause reads: "No national bank shall be a member of any clearing-house in which such [silver] certificates shall not be receivable in settlement of clearing-house balances."

[2] Laws of the United States, 47th Congress, first session, chap. ccxc, July 12, 1882.

[3] Discussion of the proper legal minimum for the gold reserve occupied much of the Senate's time. One point raised by the free-silver coinage advocates was that a "mixed reserve" of gold and silver ought to be maintained. A proviso to this effect they failed to introduce.

[4] A thorough and authoritative review of this question was made by the judiciary committee of the House of Representatives, in the report already referred to,

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So much for the origin and authority of the "hundred-million gold reserve." It remains, before examining the Treasury operations of 1895, to glance at the intervening period.

II.

The financial history of the United States government since resumption embraces four distinct and separate periods. The first, extending from 1879 to 1883, was marked by swift enhancement of credit and prosperity. During nearly all of these four years there was a continuous increase in government revenue, so much more rapid than increase in expenditure that the Treasury's general surplus greatly expanded.[1] Meantime, so large an inflow of foreign gold followed resumption, and so great was public confidence in the Treasury, that payments of public dues were freely made in the yellow metal.[2] As early as September, 1879, on the ground that gold coin "beyond the needs of the government" had accumulated in the Treasury, Secretary Sherman formally authorized the use of gold in

submitted July 6, 1892. The committee's majority report concludes as follows: "The legal effect of this proviso [in the act of 1882] was, first, to prevent the exchange of legal tenders for gold for the purpose of obtaining gold certificates, and, second, to fix the amount of the redemption fund or reserve fund at not less than $100,000,000 gold coin and gold bullion. . . . That it was the intention of Congress to fix the minimum amount of this reserve fund at $100,000,000 gold and gold bullion, and that it should be maintained at that sum, seems clear from the language of the act." It is worth recalling that this majority report was presented by ex-Judge Culberson of Texas, who was a free-coinage advocate, but a sound jurist, and whose conclusion, therefore, was clearly unbiased. The minority report is a curious rambling document, whose character may be judged from the following legal argument: "It seems to be conceded that no Secretary of the Treasury has kept the proceeds of bonds sold for redemption purposes in any separate box, vault or receptacle."

[1] The government's ordinary revenue and expenditure (excluding receipts from loans and disbursements on the public debt) compare as follows:

Fiscal Year.	*Revenue.*	*Expenditure.*
1879	$272,322,136	$161,619,934
1880	333,526,500	169,090,062
1881	360,782,292	177,142,897
1882	403,525,250	186,904,232

[2] In the twelve months ending November 1, 1880, fifty-seven per cent of customs dues at New York was paid in gold coin (Annual Treasury Report, 1880).

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regular disbursements.[1] As late as the close of 1883, the gold surplus in excess of certificates outstanding stood at $155,429,000.

The characteristics of the second period, extending from the beginning of 1883 into 1886, were the heavy cutting down of revenue without reducing expenditure, the occurrence one year of a revenue deficit,[2] and the Treasury's struggle to save itself from being utterly swamped with silver currency. The outside trade revival reached and passed its high level in 1881, the twenty to thirty millions compulsory annual silver coinage continued, and within two years the Treasury had begun to feel discrimination in the currency. In almost all true economic aspects, and in many particular incidents, this period anticipated with remarkable accuracy the symptoms of 1892. Foreign exchange went heavily against us; the net import of gold was changed to export. Gold payments to the Treasury were replaced by silver payments,[3] and the silver came in faster than it could safely be disbursed. The mere hint by Assistant-Treasurer Acton, that he might resort to the settlement of all his New York balances in silver, sent gold to a speculative premium.[4] Gold was withdrawn from the Treasury reserve in February, 1884, apparently for hoarding.[5] In the first eight months of 1884, the government's surplus gold holdings decreased $39,000,000, while its surplus silver simultaneously increased $21,300,000. The Treasury report that year frankly discussed the possibility of a forced suspension of gold payments.[6] As late as July, 1885, with the gold

[1] Circular to disbursing agents, September 19, 1879.

[2] Fiscal year 1883, when the deficit, after required sinking-fund payment, was $1,299,312.

[3] The following table shows the percentage of customs dues at New York paid in gold and in silver during the last six months of 1883 and 1884 respectively:

	1883.	*1884.*
Gold certificates,	74.1	30.8
Silver certificates,	17.2	35.7

We shall discover this mechanical law again in operation under the treasury-note issues during and after 1890.

[4] *Financial Chronicle*, March 1, 1884.

[5] *Ibid.*

[6] Secretary McCulloch wrote: "A panic or an adverse current of exchange might compel the use in ordinary payments by the Treasury of the gold held for

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reserve down to $115,000,000, the New York clearing-house banks, as a measure of emergency, offered the Treasury, from their own reserves, $10,000,000 gold in exchange for fractional silver coin.[1]

The third period of our post-resumption history, running from 1886 into 1891, comprised a series of episodes utterly unintelligible to those who do not hold the clue to American government finance. It was introduced by the extremely able financiering which kept the silver out of the Treasury and in permanent circulation.[2] Next followed a heavy surplus revenue,[3] a revival of confidence in the currency, and an enormous increase in the gold reserve. In March, 1888, the Treasury's gold surplus touched $218,818,000; in August its total money holdings reached the sum of $330,763,985 — actually one-fourth as much as the total money supply in outside circulation. This was currency contraction by most extraordinary methods. It served, nevertheless, fully and fairly to counteract the influ-

the redemption of the United States notes, or the use of silver and silver certificates in the payment of its gold obligations." Annual Treasury Report, 1884.

[1] This was to be paid *pro rata* by the banks. The actual transfer of gold was about $6,000,000.

[2] Secretary Manning's achievement consisted in cutting down the supply of United States notes of small denominations, and replacing them chiefly by notes for $1000 each. In the two years ending June 30, 1886, $21,620,000 notes for one, two and twenty dollars were thus extinguished, while the supply of $1000 notes increased $18,327,000. This measure at once created a general demand for the smaller silver certificates and for silver dollars. No silver certificates smaller than ten dollars were then authorized, but in its appropriation bill of August 4, 1886, the 49th Congress was induced to authorize the issue of one, two and five-dollar certificates, or the exchange of large certificates for an equal amount in small denominations. These latter are apt to stay in circulation. As a result, silver certificates in the people's hands rose from $88,116,000 in June, 1886, to $142,000,000 in June, 1887, and to $257,102,000 by the middle of 1889. In the same period the Treasury's surplus silver holdings decreased $80,000,000.

[3] The ordinary revenue, expenditure and gold holdings in excess of outstanding certificates, at the end of the fiscal years, was as follows:

	Revenue.	*Expenditure.*	*Gold Reserve.*
1885	$323,690,706	$208,840,678	$120,298,895
1886	336,439,727	191,902,992	156,793,749
1887	371,403,277	220,190,602	186,875,669
1888	379,266,074	214,938,951	193,866,247
1889	387,050,058	240,995,131	186,711,560
1890	403,080,982	261,637,202	190,232,405

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ence of continuous expansion. Meantime, however, the cry arose from every money market to "reduce the surplus," presently followed by the Treasury's enormous purchases, at from five to twenty-seven per cent premium, of the government's own unmatured obligations.[1] This brief career of seemingly boundless wealth, swiftly followed by almost complete collapse of Treasury resources, has but one precedent in history, and the precedent is our own, namely, the vote of Congress, in 1836, to dissipate the surplus by "deposit" of $37,000,000 with the states, the Treasury's payment, prior to April, 1837, of $28,101,644, and its issue of $10,000,000 bonds, exactly five months later, to avert government bankruptcy.

III.

The fourth period of the history we are following began in 1890, and brings us down to the present time. Its characteristics have been violent reduction in revenue, enormous increase in government expenditure, a Treasury saved from actual bankruptcy only through the loan market,[2] but foremost of all, the shifting upon the Treasury of the entire burden of supplying the large gold export drain, and the consequent break-down of the gold reserve. These extraordinary results were closely connected with three acts of legislation by the 51st Congress. In July, 1890, was passed a revenue-reducing statute, unparalleled in history for wholesale violence. It was accom-

[1] Bond purchases began April 17, 1888, and ceased formally in April, 1891, the expenditures in excess of regular sinking-fund appropriations being as follows:

Fiscal year 1888	$31,990,326
" " 1889	90,456,172
" " 1890	76,771,898
" " 1891	63,334,534
Total bond purchases	$262,552,930

[2] The three bond sales of February, 1894, November, 1894, and February, 1895, though primarily designed to restore the gold reserve, brought to the Treasury $179,421,252 additional money. Yet such was the deficit in revenue that in September, 1895, after all payments had been made on the bond subscription, the Treasury's total available surplus holdings of all kinds of money were only $181,180,094.

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panied by a deliberate and equally unprecedented increase in government expenses.[1] The same month brought executive sanction to a new currency statute that was also a novelty in legislation. This so-called Silver-Purchase Law involved the addition of something like $50,000,000 annually to the government's outstanding and redeemable notes. Such, then, was the situation of the United States at the close of 1891. The flow of currency into the government's vaults, which artificially checked the embarrassments of 1885, was totally reversed. Even the active industrial movement which absorbed the circulating currency of 1888 had ceased;[2] and an arbitrary annual increase of eleven per cent in circulating medium was now going on, in the face of a shrinkage of ten per cent in the commercial use of money.[3]

Under such circumstances it would seem, *prima facie*, that specie export to other foreign markets was the most natural result conceivable. There were, however, some facts connected with the gold export movement which still in many minds give weight to an opposite contention. In the first place, the usual minimum of exchange at which gold may be profitably shipped is $4.89 to the pound sterling, whereas all of the gold exports in 1891 and 1892 were arranged with sterling at or below $4.88½.[4] In the second place, it was known that the Austrian

[1] This is the official record:

Fiscal Year.	*1890.*	*1892.*
Net ordinary revenue	$403,080,982	$354,937,784
Net ordinary expenditure . . .	261,637,202	321,645,214

But in 1892 there was a charge to be met, in addition to the above, of $23,378,116 for interest on the public debt; also a regular charge, under the sinking-fund law, of $49,063,114, only three-fourths of which the secretary paid.

[2] The failure of Baring Brothers and the simultaneous reaction in the English and American credit movement occurred less than four months after the enactment of the Silver-Purchase Law.

[3] Aggregate exchanges at all the leading clearing houses in the United States, during the first six months of 1891, were $27,033,823,268, against $30,151,200,432 in the same months of 1890. (*Financial Chronicle's* returns.) Such figures are, of course, the most accurate index possible to the use of money in current trade.

[4] Official statement by director of the United States Mint, 1892; verified by market quotations of the time. Large gold shipments were made in 1891 with actual rates for demand bills at $4.87 to $4.87½.

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government, having decided early in 1892 on resumption of specie payments, had contracted with a European banking syndicate for the necessary gold.[1] The inference has been drawn, therefore, that the gold movement from this country was forced and unnatural. Since much of our subsequent discussion hangs on the truth or falsity of this theory, I propose to investigate it.

To begin with, a substantial part of our exported gold did go to Austria.[2] The Vienna bankers were undoubtedly making an effort to attract the gold already moving from our ports, and it may be that at times a small commission premium was paid, directly or indirectly, sufficient to cover a slight apparent loss in the market for exchange.[3] Such a premium was at least made possible through the profits of the Austrian contract. Every one knows that this was the nature of our own government's gold import in 1895; exactly the same arrangement was

[1] The original syndicate comprised the house of Rothschild, the Hungarian Credit-Anstalt, the Austrian Credit-Anstalt, the Union Bank of Vienna, the Vienna Banking Company and the Berlin Disconto-Gesellschaft. Its object was the conversion of all paper and silver loans outstanding at five and six per cent, into four per cent gold loans, and the resumption of specie payments on notes and exchequer bills to the amount of 411,994,132 florins ($147,084,000). The act gave authority to the finance ministers of Austria and Hungary to raise new gold loans for redemption purposes of 262,000,000 florins ($126,284,000). The bills, however, were not introduced in the Austrian Parliament until early in 1892; their reading was completed May 28, and their formal enactment took place only August 18, 1892.

[2] From an official Austrian report it appears that of the 100,000,000 crowns in gold ($20,300,000) brought to Vienna against the loan of 1893, 59,000,000 crowns value was in American eagles. But American gold also went largely to Austria before 1893. During 1892 the course of New York exchange was watched with deep personal interest by Vienna bankers. News of our currency operations, and comments on the subject by our government authorities, had immediate influence on the Vienna Stock Exchange. See Vienna correspondence London *Economist*, December 13, 1892.

[3] No direct premium was bid for American coin, however, either by the Austrian government or by the syndicate. This statement is emphatically made by Gustav von Mauthner, director of the Austrian Credit-Anstalt and manager of the syndicate's gold operations, in a very interesting article published in the *Neue Freie Presse* in May, 1893. Herr von Mauthner, answering the assertion that the syndicate was artificially drawing away gold from the United States, declares that the bankers purchased no gold anywhere until after January, 1893, that the only actual premium bid was made in March, and that this was for gold bars, which the United States was not exporting.

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made in our preparations for the resumption of 1879.[1] But the syndicate of 1892, like those of 1878 and 1895, had to discover where the gold could be best obtained. This was a business question. A good deal of the gold was drawn directly from Paris and Berlin. A part, also, was obtained in London.[2] But it was the syndicate's desire to draw only such gold as was "in motion";[3] that is to say, gold which was already being exported in the regular way of trade. The reason for such preference is simple. Gold moving thus is surplus money, and no money market will be disturbed by its withdrawal. Now it was perfectly evident, to foreigners at least,[4] that gold was being expelled by the laws of trade from the United States. The outflow had begun long before Austria was in the market. The only special problem of the bankers was, how to make sure that as much of the American export as was needed should be directed to Vienna. The natural course of the movement, guided by relative demands of trade, was from the United States to France.[5] To divert the already moving stream of specie to Vienna, was undoubtedly the purpose of the sales of exchange, by the syndicate's New York agents, at a rate slightly below the normal gold-exporting point.

But let us go one step further and study the actual mechanism of the operations. If the gold shipments were artificial, the high rates of exchange which made them possible must

[1] Upwards of a million gold, for instance, was imported during one month in the autumn of 1878, when demand sterling was between $4.87 and $4.88, or far above the importing point, and when there was virtually no market premium on gold. Both the Morrill and the Sherman contract paid one-half of one per cent commission on all bonds floated, besides allowing any incidental profit on an advance in price when the bankers marketed the bonds.

[2] One-fifth of the gold delivered under the contract of 1893 was in sovereigns, one-fifth in twenty-franc pieces, one-eighth in twenty-mark pieces.

[3] Von Mauthner in *Neue Freie Presse*.

[4] See the *Économiste Français* and London *Economist* during the period; especially the *Economist's* Vienna correspondence of August 8, August 15 and October 7, 1893.

[5] More of our coin actually did go to Paris, and stay there, than went to Vienna. Our imports of United States coin during the panic of 1893, and probably the greater part of the syndicate imports of 1895, were obtained at the Bank of France.

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have been artificial too. If the Austrian syndicate forced the one, it must have forced the other. Later experience proved that with a decline in New York sterling rates, even the Austrian agents could not draw.[1] Now the only way in which high prices can be forced, in foreign exchange or in any other market, is through buying. But the gold-shippers, by the nature of the case, were sellers. A New York banker who exports gold must pay for it by a draft on its foreign consignee, exactly as if he exported wheat or cotton, and he must sell the draft to an American remitter. These are the elementary principles of international exchange. But if the gold-exporters were sellers of exchange, their operations unquestionably tended towards the depression of sterling rates. Men who stand publicly in an open market for nine consecutive months as daily sellers, and who never buy, are not ordinarily accused of fostering high prices. Censure, if it arises, commonly bases itself on an inference exactly opposite. The really remarkable fact is that although $33,000,000 worth of "gold bills" were sold at New York during the first half of 1892, in June exchange was higher than in January. During April, 1893, with the gold-exporters selling $5,000,000 exchange per week, demand rates rose from $4.88 to $4.90. Such a phenomenon cannot be explained except by the assumption that some economic force of enormous power was driving the sterling market upward. I shall have written to little purpose if any reader doubts what this propelling agency actually was.

The destination and nature of the heavy exports were, then, matters of little consequence. If the German bankers had not shipped with sterling at $4.88, there can be no doubt whatever that rates would have risen to $4.89, at which the standard commercial firms would have become exporters. The experience of 1895 has proved this finally. But another turn in events which now developed had far more serious meaning.

[1] The break in exchange at New York during the panic of 1893 completely upset the plans of the Austrian syndicate. Bankers who had contracted to deliver gold to them were forced into the French and German markets, where they had to bid a high premium for gold bars. Von Mauthner; also *Economist's* Berlin correspondence, 1893.

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Until 1892, all gold taken for export from the Treasury was paid for in gold certificates. Such a transaction of course made no reduction in the Treasury's gold reserve, which is computed by deducting from aggregate gold holdings the certificates outstanding. At the close of 1892 the United States Treasurer wrote :

> No legal tender notes, in any considerable amounts were presented during this period for redemption. . . . But with the beginning of July [1892] an altogether different condition of things set in. On the first day of the month three millions in gold was taken for export, for which the Treasury received two and a half millions in United States notes and Treasury notes, and only half a million in gold certificates. Of the ten millions in round numbers exported in the month, four millions was paid for in United States notes, four millions and a half in Treasury notes, and only a million and a half in gold certificates.[1]

It was not long before the use of gold certificates in payment for export gold ceased altogether.

The effect of this new policy on the Treasury's gold reserve was decided and disastrous. From October, 1891, to September, 1893, inclusive, exports of gold footed up $154,256,615. During the same period $60,400,287 United States notes and $52,171,860 treasury notes of 1890 were presented for redemption; so that $112,572,147 of the total exports were met by withdrawals from the Treasury.[2] But for the fact that the use of gold in revenue payments was still at times considerable, this drain two years ago would have exhausted the reserve.

[1] Report of Treasurer Nebeker, 1892.

[2] Report of United States Treasurer, 1893. This report contains also the following interesting table of redemptions of legal-tender notes in gold, by fiscal years ending June 30 :

1879	$7,976,698	1884	$590,000	1889	$730,143
1880	3,780,638	1885	2,222,000	1890	732,386
1881	271,750	1886	6,893,699	1891	5,986,070
1882	40,000	1887	4,224,073	1892	9,125,843
1883	75,000	1888	692,596	1893	102,100,345

It will be seen that presentation of legal tenders for redemption in gold was not wholly a novelty in 1892.

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There has never been any thorough examination of this episode. It will be useful, therefore, to inquire the cause and meaning of so radical a change of policy. If gold was exported in 1891 without drawing on the Treasury reserve, why was it not obtained outside the Treasury in 1892? The sterling banker, in the first place, draws habitually on his London correspondent to supply remittances for American importers who have foreign debts to pay. To "cover" his own draft on the London house, when ordinary trade bills are not obtainable, he exports gold. If at such times the importer did not have the gold-shipper's draft with which to pay his foreign creditors, he would be forced to export gold himself. Something not wholly unlike this took place in 1895.

The merchandise importers who buy the banker's drafts pay him in checks on New York banks. These checks the sterling banker turns over to his own bank of deposit, and asks for gold against them. It is extremely improbable that he himself will have the gold on hand. During the month of June, 1892, for instance, one New York house exported, against its sterling drafts, $7,000,000 gold. No firm of private bankers maintains in cash a sum of any such magnitude. But neither did any single bank in New York City, at the opening of 1892, hold in reserve as much as $7,000,000 gold. What happened, prior to 1892, was exactly this. The gold-exporter's bank, receiving on his deposit the merchants' checks drawn upon other local institutions, would pass them through the clearing house next day. A heavy credit balance to the gold-exporter's bank was thus created, which the several debtor banks had to meet in cash. Now if such balances were paid in gold or in gold certificates, the foreign settlement was easily provided. The sterling banker had in effect drawn on the aggregate gold reserve of the New York Associated Banks. This was his expectation, up to 1892.

But suppose the clearing-house balances are not discharged in gold. The depositary bank alone cannot long continue to provide gold for its depositor. At best its individual reserve of gold, with exchange at shipping rates, would meet the

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export needs of only a week or two. Then it must offer notes. But notes cannot be used by the sterling banker to meet his foreign debit. This was precisely the situation of 1892. It is the situation which arises repeatedly abroad. In London it is the commonplace of financiering for the gold-exporter to carry notes to the Bank of England for redemption. The New York gold-exporters of 1892 followed the London practice, and tendered the notes for redemption at the Sub-treasury.

This fact does not, however, explain the admitted change in policy. The gold-exporters resorted to the Treasury in 1892 because the clearing-house banks had ceased to pay the bulk of their mutual balances in gold. But why had such payments ceased? The answer, like that to every other question evoked by recent currency disturbances, throws us back on the law of 1890. Before the treasury-note inflation, gold was the natural money of exchange between the New York banks. The paper currency was needed for interior remittances and for local retail trade, and it was not then in excessive supply. The Eastern banks, therefore, were virtually compelled to discharge their clearing-house balances in gold, which they could not readily ship West, or in gold certificates of large denominations. But the wholesale issue of Treasury notes completely upset this trade adjustment. Interior institutions were now supplied with currency in great excess of need for their own transactions. Instead of drawing legal tenders from New York, they shipped their own idle currency holdings East. The stock of legal tenders reported in New York bank reserves in the middle of 1890 was $30,975,000; in the middle of 1892 it was $60,000,000. Since this supply of legal tenders, under the Silver-Purchase Law, was inexhaustible, the banks followed a perfectly logical trade instinct in using them for payments. During the twelve months ending with September, 1890, the proportion of legal tenders paid in clearing-house balances was one per cent; in 1891 it was 35.1 per cent; in 1892 it was 57½ per cent.[1] Exactly the same

[1] Annual reports of the New York clearing house. Following are the figures of balances paid during several clearing-house years ending October 1:

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phenomenon was visible in New York customs payments to the Treasury.[1] With this in mind, it is simple folly to talk of a "raid" upon the Treasury. Had the dealers in exchange not applied to the government for note redemption, they must either have bid a premium for gold, thereby publicly discrediting the currency, or else defaulted on their obligations. Nor is it any less frivolous to argue, as some respectable critics argue even now, that the banks ought to resume the practice of supplying gold for export. If such advice had been followed in 1892, and the banks, by some unusual personal agreement, had combined to continue providing gold for export, the shippers in the end would equally have been forced back upon the Treasury. For the New York Associated Banks held at the opening of July, 1892, $91,600,000 specie, including silver, and the gold exports from New York, during the next twelve months alone, were $93,000,000.

On April 22, 1893, the gold expulsion having been continuous, the Treasury's gold reserve fell, for the first time since resumption, below $100,000,000. The record of the ensuing twenty-one months is an exasperating chapter in our history. This period of uncertain makeshifts, private dread and official groping began with the indirect appeal of the nation's finance minister for the banks to give up gold for notes. In view of the circumstances already noticed, it is not strange that this proposition met with limited success. Something like $15,000,000 gold was advanced by scattered institutions, and was immediately engulfed in the specie exports. On the vicissitudes of the panic year we need not linger. Its one

	Gold Coin and Certificates.	*Treasury Notes.*	*Legal Tender Certificates.*	*Legal Tenders and Minor Coin.*
1890	$1,735,316,000	$6,914,000	$4,995,000	$5,815,145
1891	1,028,443,000	102,435,000	353,510,000	100,247,500
1892	791,022,000	357,971,000	483,350,000	229,157,000
1893	168,628,000	584,613,000	188,120,000	525,063,000
1894	244,261,000	362,301,000	238,200,000	552,360,000
1895	1,415,000	15,436,000	1,009,405,000	870,318,349

[1] In 1889 the percentage of gold certificates in these payments averaged above 85. In 1890 the percentage ran up to 95¾, while payment in legal tenders averaged below three per cent. In June, 1892, only eight per cent was paid in gold, 26⅞ per cent in United States notes, and 49 per cent in treasury notes.

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essential incident was the repeal of the currency law of 1890. Repeal stopped further currency inflation, but it could not undo the mischief of the past. Hence it had only temporary effect. At the close of 1893, with the gold reserve at $80,000,000, Secretary Carlisle intimated the administration's purpose to fulfill the law of 1875. In February and November, 1894, two issues of five per cents for $50,000,000 each were sold to the New York banks. The experiment failed, however, to maintain the gold reserve, for reasons which we shall see were entirely logical. Midway between these two loans of gold at five per cent, the same New York bank subscribers were induced to lend the government $5,000,000 gold for nothing. In the one case the government borrowed on its bonds; in the other on its non-interest-bearing notes. Designed as it undoubtedly was for the public good, this mixture of gifts and bargains was most extraordinary. The performance was repeated as lately as the present autumn (1895), when the banks again were prodded up to turn over gold for notes. The whole series of "reimbursements" was as loyal in its motive, as foolish in its economy and as utterly fruitless in its net results, as the fabled tender of British family plate to Pitt's embarrassed government a hundred years ago.

The failure of 1894's two bond issues to sustain the Treasury was due to the fact that they hardly touched the real root of the evil. Had the use of money in interior trade been active, it is probable that the withdrawal from the money market of $58,660,917 in February and of $58,444,900 in November would have created a perceptible void in circulation, contracted the discount market, raised the money rate and checked the demand for export gold. If only the $117,000,000 realized from the sales had been kept in any form of money in the Treasury, some depression in foreign exchange must have ensued. But trade was at its lowest point of dullness and stagnation since 1884; the surplus reserve of the New York banks, even after the loan of November, stood at $33,000,000;[1] and

[1] After the full payment on the loan of February, 1894, the surplus reserve stood at $74,536,825. Immediately before that payment the surplus reserve was $111,623,000.

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the Treasury's continuing deficit threw five millions every month back on the money market. As a consequence, the true cause of the trouble — the enormous relative oversupply of currency — remained operative; call loans, even during payment for the bonds, remained at one per cent;[1] and with the symptomatic high foreign-exchange rates, gold exports continued.

A possible belief that mere money withdrawals by the Treasury would check the specie exports, and thus protect the gold reserve, is the only apology for one part of the action of the New York institutions. They subscribed, indeed, in full for both the bond issues, and at prices which the open market failed subsequently to maintain.[2] They thus upheld, at their own considerable loss, the credit of the government. But the government bonds were, by law and by common understanding, issued explicitly to keep good the Treasury's gold reserve. It can hardly, therefore, be recalled as a creditable episode in banking, that of the $58,660,917 gold coin paid for the first bond issue, $24,396,459 was obtained by redemption of legal tenders at the Treasury.[3] Tacitly recognizing the character of the January incident, an agreement was required by the organizers of the November syndicate that no gold for this subscription should be taken from the Treasury. And none was so withdrawn; but by a very questionable subterfuge many subscribers to the loan borrowed the coin for payment, largely on gold notes at thirty days, and when the time arrived for settlement of the notes they once more withdrew the requisite specie from the Treasury. In December the Treasury lost by such withdrawals $22,000,000 more gold than was exported.[4]

[1] In the week of payment to the Treasury on account of the February loan, call-money rates in New York went no higher than 1½ per cent, and receded from that to one-half of one per cent. When the November loan was being paid over, three per cent was touched on one day for call money; but 1½ was the average even for that week, and the one per cent rate ruled again almost immediately.

[2] The February issue was taken at or above the price of 117.223, the November issue at the uniform price of 117.077. In January, 1895, these bonds sold at 116½, in May at 115, in October at 116⅛. The whole premium originally paid has never been recovered.

[3] Monetary Systems of the World, by Deputy-Assistant United States Treasurer Muhleman, Historical Appendix. [4] *Ibid.*

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These were times when the ordinary rules of sober trade seem to have been forgotten; there was incipient panic.

IV.

We now approach the government's operations in the loan market of 1895. The actual situation with which, at the opening of that year, the government was confronted, must first be summarized. From $111,000,000, after the November loan, the Treasury's gold reserve had fallen by the second week of February to $41,340,181.[1] Every possible measure of relief, based on domestic interests, had been tried in vain; prices were falling rapidly in all the markets, and a suspension of specie payments was discussed as an early probability. Such was the panicky rush of foreign capital for transfer to Europe before the anticipated crash, that sterling exchange advanced above the normal export point, and the weekly gold exports from New York increased during January from $2,350,000 to $7,700,000. A few days more of such gold withdrawals would have forced virtual suspension;[2] another month of them would have exhausted the Treasury's entire reserve.

The government had no card left to play except its foreign credit, and in view of the Treasury's situation and of the failure of the two bond sales of 1894, there was grave doubt whether its credit was not materially impaired. Acting undoubtedly under the spur of critical necessity, a contract was signed on February 8 with the New York representatives of the most powerful domestic and foreign banking interests. The terms of

[1] Daily statement of balances, United States Treasury.

[2] The Treasury actually did fall to a position where it could not, in a possible emergency, have met even the demands of holders of gold certificates. The official daily report of February 11 showed that against $52,579,579 gold certificates outstanding, the Treasury held only $50,934,516 gold coin. It held, of course, a large additional sum in gold bullion, but certificate-holders were entitled to coin. The gold coin in the New York Sub-treasury was reduced on February 2 to $9,700,000. A few days later the Secretary of the Treasury received a telegram from the Assistant United States Treasurer at New York saying that it might not be possible to continue gold payments more than one day longer. — Interview with Assistant Secretary Curtis, published February 25.

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this contract were hard,[1] and it was not easy to bring the administration and the bankers to agreement. The situation, however, was too critical to admit of the least delay, and after four days of dispatches between the Treasury and the syndicate representatives, the bargain was closed upon the bankers' terms.

It is not my purpose to discuss either the political aspect or the mere bargain aspect of this operation. It undoubtedly did cut down the quoted credit of the United States, though this was a temporary matter.[2] It is probable that no great fiscal operation in recent history has been so hastily concluded. It was, however, perfectly plain that the administration had no choice but to accept the syndicate's proposition or suspend government specie payments.

There was one clause in the contract which marked a decided line of difference between this bond issue and those of 1894; there was another which was a novelty in finance. The first of these was the proviso that one-half of the coin deliverable should be obtained in and shipped from Europe. The second, on which hung the most interesting of this year's operations, read as follows:

[1] By the terms of the contract the government bought 3,500,000 ounces of gold, the authority for this form of contract being a statute of March 17, 1862, providing that "the Secretary of the Treasury may purchase coin with any of the bonds or notes of the United States, authorized by law, and upon such terms as he may deem most advantageous to the public interest." Revised Statutes, § 3700. The contract price for the gold was $17.80441 per ounce, to be paid for in four per cent bonds for $62,314,435. But as the regular market price of standard gold was $18.60465 per ounce, the actual value to be received in gold was $65,116,275, or a premium of 4.49 per cent over the face value of the bonds. These were thirty-year bonds, and were sold thus at nearly 104½; the outstanding four per cents, with twelve years more to run, sold in open market during the preceding week at 113½. The price on the new issue was equivalent to a net interest rate of 3¾ per cent paid by the government, against a net rate of 2⅞ and 3 per cent paid for the loan of January, 1894. The syndicate made, however, an alternative proposition for three per cent bonds, with stipulated payment in gold, at par. This was referred to Congress, and was rejected by that body.

[2] Although the old four per cents fell from 113½ to 110½ within a month, they recovered all this loss by June. Originally taken at 104½, the new bonds were marketed by the syndicate, eleven days later, at 112¼, which has been the ruling open market price this autumn. The Hungarian four per cents issued in the Austrian operations of 1893 were taken by the syndicate at 92 and sold at 93½.

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In consideration of the purchase of such coin, the parties of the second part, and their associates hereunder, . . . will, as far as lies in their power, exert all financial influence and will make all legitimate efforts to protect the Treasury of the United States against the withdrawal of gold pending the complete performance of this contract.

Economically considered, the required delivery of one-half the $65,000,000 gold from European reserves has two very different sides. We have seen that the failure of the loans of 1894 to check gold exports was due chiefly to the fact that the currency, despite withdrawals by the Treasury, continued redundant. From this point of view, therefore, the stipulated addition of $32,500,000 foreign gold to the general currency supply was clearly illogical. Ordinarily governments borrow abroad either because domestic supply is insufficient, or because they do not wish to disturb the domestic money market. But neither motive was present with the United States in 1895. The experience of 1894 had proved both that domestic gold was to be had in sufficient quantity, and that its withdrawal did not appreciably contract the money market. On the other hand, the primary purpose of the loan was to raise gold, and the two loans of 1894 had also proved that although gold could be obtained by the Treasury from American institutions, it would be taken back into the bank reserves through redemption of legal tenders. This was equivalent to saying that gold could not be positively secured on a domestic loan. Theoretically, the banks were equally at liberty to increase their own specie holdings by withdrawal of gold contributed by foreigners; practically such a result was not conceivable. An economic argument on this phase of the question is as difficult as economic discussion of the action of the banks in 1894. The two questions are indeed inseparable. It is safe at least to say that if the withdrawal of Treasury gold pending the loans of 1894 had any justification, it must have been justified by inability of the banks to spare their own. Such a conclusion pointed, as the practical solution, to a foreign loan.

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It has been assumed, in some quarters, that half of the issue of 1895 was placed abroad in order to establish a standing foreign credit. Against such credit, it has been inferred, exchange was to be drawn in sufficient quantity to depress the sterling market, supply American remitters, and check exports of gold. This plan was adopted, distinctly for such purpose, during our government's foreign-loan negotiations of 1873,[1] and it was mooted by Secretary Sherman in 1879.[2] Clearly, however, nothing of the kind could have been contemplated by the contract of 1895. The terms of that instrument called for the sale to the government of 3,500,000 ounces of gold, one-half of which was to be "obtained in and shipped from Europe." But this established no foreign credit fund on which to draw exchange. It is when the gold is not imported that sterling bills are drawn. It is true, however, that four months later the contract was modified by mutual consent so that only $14,500,000 gold in all was shipped from Europe. The reason for this modification was that nearly $18,000,000 of the four per cents sold abroad had been resold to the United States. This had not been anticipated, and it was deemed best to assume that foreign gold against the $18,000,000 syndicate subscriptions had been duly imported, and that an equal amount had been reëxported to pay for the American repurchases. It was "cleared," therefore, by the payment to the Treasury of $18,000,000 domestic gold held by the syndicate at New York.[3]

[1] The house of Rothschild received $6,400,000 U. S. bonds that year, "in payment of which they gave a letter of credit. The amounts paid on the same (through sterling drafts sold in New York) were credited thereon until the total amount was extinguished." — Letter of the Treasury agent in London to Secretary Sherman, April 3, 1879.

[2] "Can you suggest any way by which an arrangement can lawfully be made for exchange in London, say to the amount of $10,000,000, in April or May, to be drawn upon if necessary? In case of a considerable shipment of gold, such a resource might be of advantage in preventing popular alarm." — Sherman to Treasury's London agent, March 15, 1879. The agent proposed a repetition of the plan of 1873 — sales of exchange by the Treasury's New York agents, "the proceeds of each bill of exchange sold . . . to be immediately paid into the subtreasury in New York as a receipt on account of the sales of bonds." This experiment was not tried, however, in 1879.

[3] This explanation is official. But it should also be mentioned that a large Austrian order for gold, which was being placed in New York during May, was provided from the syndicate's stock of gold in London.

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But by far the most important part of this transaction was based, not on the gold deliveries to the Treasury, but on the very intangible pledge to "exert all financial influence . . . to protect the Treasury . . . against the withdrawal of gold." Let us see what this pledge involved.

Since the gold withdrawals from the Treasury resulted from gold exports, it became the first necessary undertaking of the syndicate to arrest the specie movement. The gold shipments, which had risen in weekly volume by the close of January to $7,700,000, went out because remitters could obtain no exchange drafts except those of gold-exporters. Therefore, the only means of checking further shipments was to supply exchange. In other words, if the syndicate bankers were to offer their own drafts on London at or below the price accepted by gold-exporting houses, and were not to "cover" their own sales by remittances of specie, the needs of American buyers of exchange would be satisfied without a drain upon the Treasury. This is exactly what the bankers did.

But the undertaking was by no means as simple as this description indicates. Sales of exchange are practically contracts to deliver, at a stipulated distant spot and to stipulated parties, a sum of legal money. If the contractor holds a claim on a solvent debtor at that spot, he may order the debt to be discharged through payment to the holder of his contract. This would effect delivery. If the contractor exports gold to his agent at the stipulated place, the contract may quite as readily be discharged. But the market of 1895 was such that New York claims on foreign debtors could not be had in sufficient quantity to meet remitters' needs, and our supposition is that the syndicate was not to "cover" its own sterling drafts in gold. In such a case, the contractor must provide through other sources for his European delivery. He may conceivably hold on deposit, at the spot agreed, the stipulated sum. If not, he must borrow it in that market for delivery. As a matter of practice, this second alternative is invariably adopted.

But how much London borrowing would the syndicate's experiment necessitate? We have seen that even in the

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twelve months ending with June, 1893, upwards of $90,000,000 in gold was sent to Europe; which meant that in New York City $90,000,000 bankers' sterling drafts had been absorbed at high prices to supply remitters' needs. Under the strain of providing gold for this the national Treasury had broken down; a private banking syndicate could hardly accept the chance indifferently. Nor could any banking firm or combination of banking firms borrow $90,000,000 on their note for delivery in London.[1]

The syndicate's calculation was, however, that so enormous a transfer of capital would not be called for. Only on such assumption was their undertaking rational. Much of the heavy demand for exchange on London in 1893 and in the ensuing year had its basis in the unwillingness of foreign creditors to leave their funds in the United States, with government insolvency impending. The simple terms of the contract of the syndicate would largely check that movement. There was a further possibility. If foreign purchases, whether of American merchandise or of American securities, were to expand beyond the volume of our purchases from Europe, drafts on New York would presently be as hard to get in London as foreign drafts were in New York in January. In such event the syndicate, having control in New York City of the receipts from previous sales of its exchange, could sell through its London representatives, at profitable rates, its own drafts on New York. Every draft thus sold would provide the means of canceling that much of the syndicate's London debt. Eventually, it might be possible thus to discharge the whole.

First, however, a selling price had to be fixed for the syndicate's exchange. In open competition, it was not easy to say what the price would be. If gold shipments were to be

[1] This will explain the reservation in the syndicate's contract to protect the Treasury — "as far as lies in their power." Unusual and indefinite as such a pledge at first appears, it is clear that any more positive engagement would have been Quixotic. In September much excitement was caused on the New York stock market when one of the firms in the syndicate, which had not shipped gold all summer, withdrew $2,500,000 from the Treasury for export. The fact was that the firm's correspondent cabled that its line of London discounts had grown too large and must be "covered."

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stopped, the syndicate must sell its bills below the rate at which any competitor could "cover" a sterling draft in exported gold. Now gold had been shipped, within three years, with rates as low as $4.87½, and there was no certain assurance that this would not occur again. But if the syndicate sold exchange below $4.87½, and later lost control of the sterling market, it might be forced to buy some one else's foreign drafts to pay its London debt, and the price then ruling might be the maximum of exchange.[1] If the bankers sold several million pounds of sterling drafts at $4.87, and had to "cover" subsequently at $4.89, they stood to lose heavily. This was the first embarrassment. It was met by a most extraordinary move.

To insure a market at the highest rates, without fear of lower sales by gold-exporters, the sterling market was first swept absolutely clear of competition. Practically every New York banking house with large foreign connections was admitted to the syndicate. Each of these houses was allotted at low rates a liberal share of the new government loan, the condition of allotment being that which the syndicate imposed upon itself, to ship no gold and to sell no sterling drafts except at highest prices. Here was the first use made by the syndicate managers of their profits. The result was soon apparent in the market for exchange. During the preceding year, American merchants with foreign dues to pay had been able to obtain a gold-exporter's draft on London at $4.88½ or less. After the syndicate had bound its fellow-bankers, the uniform price for sight sterling was $4.89 or higher.[2] During July, in fact, the so-called "syndicate rates," which meant the only rates at which drafts were then obtainable, were fixed at a minimum of $4.90. This was fully one cent in the pound above the point at which drafts on London could be profitably covered by specie shipments. It signified that an American

[1] The effect would, of course, be the same if it were to ship gold at, say $4.89.

[2] Demand exchange broke to $4.88 in the week when the contract was announced, but this was a temporary matter. It was largely due to outside sales based on an erroneous notion that the syndicate would be forced to compete with the gold-shippers, and thus to establish lower rates.

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importer wishing to settle a trade debt of £100,000 in London, must pay his banker $490,000 for the draft, whereas in 1894, with free competition in exchange and with sales of drafts on London covered in export gold, he had paid no higher than $488,500. In other words, the remitter lost, through the operations of the syndicate, $1500 on every £100,000 remittance.

This fact discloses at once the project's economic weakness. It was to all intents and purposes a forestalling operation. The syndicate had not, strictly speaking, cornered the market for exchange; but it undertook to control the sources of supply and to mark up prices — which is quite equivalent. Such situations commonly regulate themselves. Experience teaches that in market "corners," direct or indirect, the most careful possible control of visible sources of supply has invariably failed to insure success. Some source of supply, able to fill current demand at lower prices, will usually be overlooked; if not, some new source, hitherto unheard of, will be discovered. The action of this economic law, in the face of the syndicate's skillful operations, is the chapter of foremost interest in the experiment of 1895.

The syndicate began, however, with the market under complete control. Gold exports ceased at once,[1] stock-market prices rose and confidence returned — though slowly, for the syndicate's moves were watched with much misgiving. Through February, March and April, the allied bankers met at the regulated price all demands for drafts on London. No gold was withdrawn from the Treasury; the domestic gold due under the contract was paid within three weeks; five millions monthly came to the government by the European steamers, and by June 25 the $100,000,000 reserve was again intact. This was not all. The recovery in confidence affected Europe too. Berlin and London were full of capital seeking remuner-

[1] So sudden was this check that in the week of the contract's promulgation some $7,000,000, which had been withdrawn from the Treasury on Friday and packed for export, was taken off the steamer before it sailed and was returned to the Treasury in exchange for notes.

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ative investment; the "Kaffir kings," fresh from the marketing of their African gold-mine shares at enormous premiums, were ready for new fields of speculation, and between the investors and the speculators, a sudden European demand for American securities set in which forced up the scale of values with amazing rapidity. For three weeks during May, every east-bound European steamer, instead of taking gold, carried out shares and bonds of American corporations. A dozen or more American railway companies, whose panic economies had made necessary fresh capital for improvements, sold new bonds at good prices in the foreign markets. From $4.89, the syndicate's minimum, sterling exchange fell to $4.86⅝, or parity. This was a sign that drafts on New York City were in high demand by London debtors, and this demand the syndicate now supplied. It probably then repaid all, or nearly all, of its London borrowings, drawing upon its New York capital. Had not the syndicate stood forth then to supply the needed drafts to Londoners, it is probable that the United States would have imported gold.

The bond syndicate seemed at that moment to have achieved complete success. As a matter of fact, its real perplexities were still before it. The foreign buying ceased almost as suddenly as it had begun. By the time that the syndicate had covered its "short" exchange, sterling rates had advanced again to the former high level. Some of the foreign buyers sold back our securities at the higher prices, and took their profits. Later on, when half of the government four per cents were delivered to the foreign subscribers, large amounts of these securities too were resold to the United States; for the New York price was higher than that of London.[1] But what was most serious of all, the economic law of a disordered currency,

[1] This is always a serious obstacle in the way of permanent relief through foreign loans. It was a source of continual embarrassment to Austria in 1893, when the rise in foreign exchange, previously alluded to, was forced by re-sales to Vienna of the new bonds lately placed in Berlin. It threatened at one time the success of our own resumption of 1879. In 1877 the syndicate was forced to buy United States bonds in the open London market to check their return to New York.

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whose penalty Congress had defied and the syndicate for the time had averted, began again to operate. For, let it be observed, the bankers' operations had dealt with symptoms and consequences; they did not and could not touch the cause. More than this, it presently appeared that these operations were serving in some degree to aggravate the evil. The currency was overcharged; money was still heaped up in great excess at New York City. With reviving credit, industrial trade and prices had revived. But neither trade nor prices had yet returned to the level of 1892, and in 1895, as in 1892, two to four millions weekly of interior currency were flowing to New York City. Gold exports, whatever their other evil results, would in a measure have relieved this currency congestion. But no gold was released, the heap of currency grew larger,[1] and as foreign capital no longer found employment, drafts for its transfer back to Europe were in strong demand. Meantime, however, throughout the month of June the syndicate's control of the sterling market remained unbroken, and $4.90 was the minimum price for demand exchange.

But in July something happened which occurs invariably at one stage of a market "corner." I have already said that when all visible sources of supply in such a market are controlled, new sources, in some unexpected quarter, are sure to be discovered. Every New York banker commanding large local and foreign capital had been identified with the syndicate; the motive for such union being undoubtedly as much the wish to help the government as the hope of gain. Indeed, most of the bankers lost eventually through their abandonment of the open market. But with the syndicate houses selling no exchange below $4.90, and with a trade profit in specie shipments to cover sales at $4.89, a New York firm previously

[1] Some effort was apparently made, during the summer, to withhold absolutely from the loan market the syndicate's local capital, accumulated through its sales of sterling. To do this, the money had, of course, to be withdrawn from bank deposits and "locked up," possibly in the vaults of trust companies. There were strong evidences of such a process in the weekly bank statements during July. But this money was released on the return of guarantee funds to the syndicate's bank subscribers, and reappeared on the loan market and in bank reserves.

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concerned in the coffee-import trade, but with powerful European connections, entered the market, offered exchange one cent below the syndicate, and shipping gold to make good its sterling drafts, withdrew the specie from the Treasury. The firm's first shipments of gold were apparently undertaken to discharge its own trade debts abroad. But it very soon extended its operations to the drawing of foreign exchange for the benefit of other trade remitters. When this happened, of course the house instantly had the market in its hands. The syndicate held to its former non-competitive exchange rates, and before three months had passed, $34,000,000 of the government gold reserve had gone abroad.

This was in actual fact the end of the syndicate experiment. Throughout August and September, it is true, gold from the reserves of local institutions was paid into the Treasury for notes. The syndicate thus paid over some $16,000,000; other banks contributed $4,000,000 more. But this was purely a voluntary matter; it was the old and patriotic, but utterly illogical, "reimbursement" of 1894, of 1893 and of 1885. Even this makeshift failed to keep pace with the demand for export gold. It was only when the reserve had fallen to $93,000,000, that the autumn movement of interior trade drew off the idle currency surplus at New York, and thus gave local employment to idle foreign capital. Then rates of exchange declined and the specie outflow came to a normal end. Thus the situation stands at this writing.

What, then, is to be our conclusion concerning this remarkable experiment? I have shown that the methods of the syndicate involved theoretically unsound economics, and that in at least one way its operations in exchange indirectly aggravated the evil whose consequences they were intended to avert. We have seen, too, that the distinct undertaking of the syndicate, to prevent export of gold withdrawn from the Treasury, broke down completely before the expiration of the contract. Are we then left to the conclusion that the experiment of 1895 was a failure?

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If such a conclusion were justified by the abstract principles of political economy, it certainly would not be warranted by practical common sense. However faulty the theory of the undertaking may have been, the tangible results are of the highest possible value. To have saved the Treasury from imminent insolvency, and to have restored health and activity to private trade and credit, are no small achievements. The truth of the matter is, that political economy resembles all other sciences, in that its principles cannot be applied in practice with perfect rigidity. In every case of obvious disorder, science must discover first the actual cause of trouble, then the proper method of removing it. But because the remedy is discovered, it does not follow that it can instantly be applied. In 1895 the disease and the remedy were plain to the majority of educated minds; but it was equally plain that the remedy could not immediately be used, and yet the patient could not wait. A quick and powerful palliative was applied, with a double hope: that partial return of economic health would enable the nation better to endure another strain, and that, with lapse of time, returning sanity in legislation would make possible the final cure.

Whether the syndicate experiment has accomplished more than this, is a matter of great doubt. Heavy interior trade at the harvest season has temporarily solved the problem; the drain on the Treasury was stopped mechanically. But this is no assurance that, with the currency inflation left at work, relief will be more than temporary. In this regard, the teaching of our own experience is not cheerful. Increasing trade, as an absorbent of the surplus circulation, will do something to avert renewed embarrassment; an increased surplus in the Treasury would do more. Conceivably, either might restore permanent prosperity. But 1891 showed for the one, as 1888 showed for the other, that unless the fundamental cause of mischief is taken courageously in hand, the country will probably enjoy only a breathing-space.

ALEXANDER D. NOYES.

NEW YORK CITY.

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THE DECREASE OF INTERSTATE MIGRATION.

THE question of migration, like that of free trade or protection, is frequently discussed on the tacit assumption that some mysterious change occurs when goods or men cross the boundaries of a country. The principles regulating the exchange of commodities or the movements of persons are, however, substantially unaffected by the presence of political lines. Viewed from the ordinary standpoint of politics and legislation, international differ widely from internal movements of goods or persons ; but as manifestations of social forces they are so closely related that results from the study of one may illumine the other. Hence, if interstate migration in the United States is relatively decreasing, and has been for about a score of years — the point I shall attempt to prove, and if this has happened without legislative regulation simply as a result of the action of social and economic forces, the fact, aside from its intrinsic importance, may justify the inference that, even if no further legislation be enacted, international migration, or immigration to the United States from foreign countries, will ultimately and perhaps speedily decrease.

I.

The only materials for a comprehensive study of the amount of interstate migration are afforded by the national census reports since and including 1850, which record the birthplaces by states[1] of the natives of the country. The tables here used are taken from the volume of the census report of 1890 which made its appearance in July, 1895.

The following table gives the general results at the date of each census of the preceding interstate migration : —

[1] For the sake of brevity I have included the territories and the District of Columbia under the generic term state.

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DATE.	TOTAL NATIVES OF U. S. IN U. S.	NUMBER LIVING OUTSIDE STATE WHERE BORN.	PER CENT OF TOTAL.
1850[1]	17,727,578	4,176,841	23.6
1860[1]	23,353,386	5,829,681	25.0
1870	32,991,142	8,635,457	26.2
1880	43,475,840	9,593,106	22.1
1890[2]	52,966,041	11,094,430	20.9

From this it appears that the percentage of natives living outside the state of birth was 2.7 less in 1890 than it was in 1850. This percentage rose between 1850 and 1870, at the end of which period over one-fourth of the natives were residing in different states from those in which they were born; but during the second score of years it decreased very considerably.

While, then, the number of persons inhabiting different states from those where they were born has steadily increased since 1850, the number of those who remain in their native states has increased since 1870 with considerably greater rapidity. The natives of the United States are showing a greater tendency to remain in the states where they were born. Whether they are also more prone to remain in the native counties or towns is a subject to be considered later. Before taking that up let us try to answer two questions: (1) From what states is this emigration greater than the average for the country? and (2) From what states has it decreased during the last decade?

(1) The general answer to the first question is best indicated by the following map, in which the shaded states are those which sent out a proportion of their native population larger than the average for the entire country.

This map indicates that the states east of the Alleghanies sending out more than the average proportion of emigrants are

[1] The figures for 1850 and 1860 do not include the slaves.

[2] In the figures for 1890 I have omitted the 396,652 natives who did not report the state in which they were born, and the 10,010 who are reported, somewhat oddly, as natives though born at sea or abroad of native parents. No such distinctions appear in earlier census reports.

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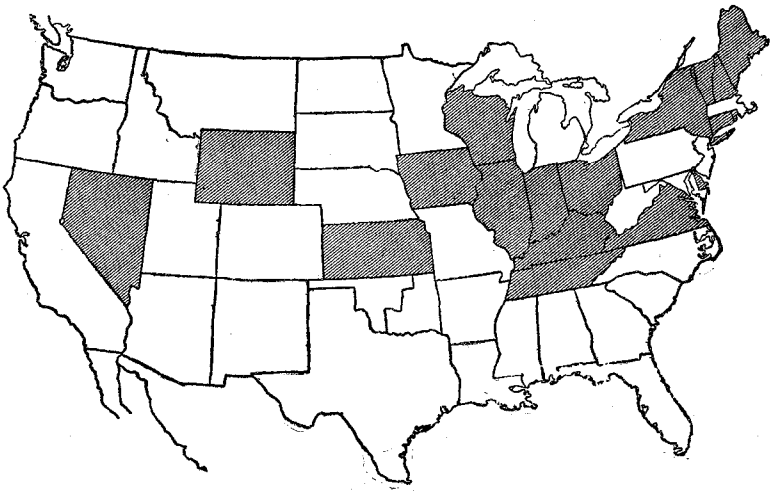
Virginia, Delaware, New York, and the New England states except Massachusetts ; and that those in the interior lie on both sides of the Ohio River and the upper Mississippi. There are also three isolated states further west.

It further appears that the only northeastern states with a stronger hold than the average upon their native population are those in which mining or manufacturing has notably increased of recent years, *viz.*, Massachusetts, New Jersey, Pennsylvania, Maryland and West Virginia.[1] On the other



STATES WITH MORE EMIGRATION THAN THE AVERAGE FOR THE COUNTRY.

hand, the largest area of excessive interstate migration is in the central states east of the Mississippi. How far the latter fact may be connected with the remarkable facilities for travel by water or rail in those states, and how far with the westward trend of the agricultural interests of the country, must be more or less a matter of conjecture.

The states with more than the average amount of emigration, arranged according to the percentage of natives living outside in 1890, rank as follows : —

[1] The figures for West Virginia are, however, questionable owing to the recent formation of that state. Persons born in what is now West Virginia before its organization as a state may have reported themselves as born in Virginia.

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GROUP I.		GROUP II.	
STATES.	PER CENT OF NATIVES LIVING OUTSIDE.	STATES.	PER CENT OF NATIVES LIVING OUTSIDE.
Vermont	40.9	Tennessee	24.7
Nevada	38.1	Wisconsin	24.0
New Hampshire	34.1	New York	23.6
Wyoming	29.8	Kentucky	23.2
Iowa	28.5	Connecticut	23.1
Virginia	28.2	Rhode Island	22.7
Delaware	28.0	Kansas	22.0
Ohio	27.6		
Maine	27.5		
Illinois	27.1		
Indiana	25.9		

The first group includes all the states from which over one-fourth of the natives have emigrated, the second all from which between one-fifth and one-fourth have emigrated, and the two together all from which the emigration has been greater than the average for the whole country.

In interpreting this table it must be remembered that, other things being equal, a state of small area will show a greater amount of migration beyond its bounds than a large state. It is perhaps for this reason that Rhode Island and Connecticut, although manufacturing states, appear in the table. On the other hand, the fact that Texas has sent beyond its bounds a much smaller proportion of its native population than any other state, only 5.2 per cent, is in no small measure to be explained by its great size, which allows wide range within its bounds. The great region of increased migration is found in certain states of the north central group. The increase from some of them during the last decade has been very noteworthy. Illinois, Iowa and Kansas are the most conspicuous. In these states the per cent of the native population living outside was as follows:

	1880.	1890.	INCREASE.
Illinois,	24.47	27.13	2.66
Iowa,	22.77	28.48	5.71
Kansas,	16.51	22.03	5.52

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The actual numbers may seem even more striking:

	Natives Living Outside.		Increase.
	1880.	1890.	
Kansas,	46,085	137,586	91,501
Iowa,	217,389	397,985	180,596
Illinois,	553,889	817,717	263,828

Between 1880 and 1890 over half a million natives of these three states alone must have migrated across a state line, an outflow equal to nearly one-tenth of the total immigration to the United States during the same period. So marked an increase of migration in this great and populous region makes it the more surprising that in the country as a whole interstate migration has diminished.

There is a general coincidence between the states which have sent out a large proportion of their natives and those which have shown a small increase of total population. Vermont and Nevada have sent out the largest percentage of emigrants, and at the last census they were the only two states failing to show any material increase of population. Between 1880 and 1890 Nevada lost 16,505 residents, and Vermont gained only 136. Of the twelve states increasing by less than fifteen per cent, ten — all but Maryland and Mississippi — appear among the states with emigration higher than the average. Such coincidences are due not merely to the subtraction of a large number of emigrants from the population, but yet more to the fact that the causes at present encouraging emigration, at least in the Eastern states, also discourage early marriage and the rearing of large families.

(2) Let us turn now to the second question raised above: From what states has emigration decreased during the past decade? This also may be answered best by a map, in which the shaded states are those of which the proportion of natives living outside was less in 1890 than in 1880.

This shows clearly the parts of the country in which the tendency to migrate across state lines has decreased. The six shaded states which make an irregular band across the country from Washington to New Mexico, have been so recently and

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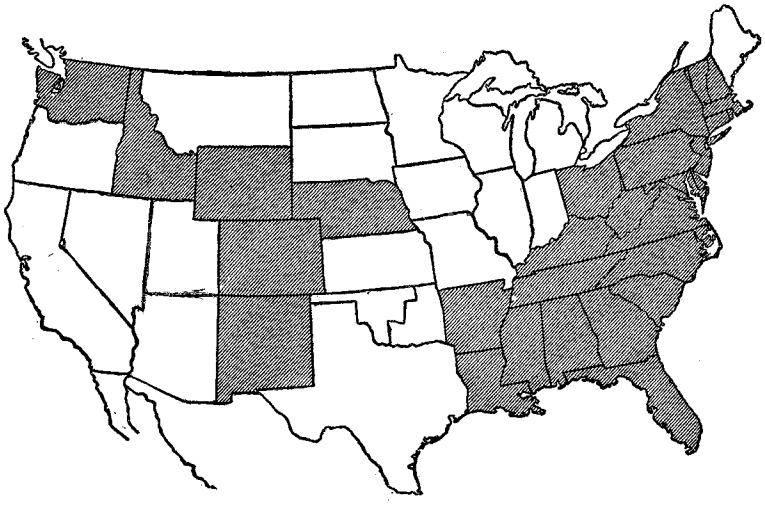
incompletely settled that the total of their native population is less than that of Maine or Arkansas. Hence they may be disregarded.[1] The map does, however, show an unbroken stretch of states from Maine to Texas, from which emigration has been relatively decreasing.

In attempting to compare by decades the movements of the populations of the various states, some trouble arises from the incompleteness of the available statistics. Before the emancipation the birthplace of the negroes who were slaves was not reported. Hence the facts for the Southern states in 1850



STATES FROM WHICH EMIGRATION DECREASED BETWEEN 1880 AND 1890.

or 1860 are not easily to be compared with those of the Northern states at that time or with those from any part of the country now. Furthermore it is probable that even at present the number of negroes who are unable to tell the state in which they were born is not inconsiderable. The only states, then, concerning which trustworthy information for the whole period since 1850 may be obtained are those of the northeastern group and a few of the north-central group. We may assume that for each state the decade preceding the

[1] It may be noted in passing that the great prosperity of Nebraska between 1880 and 1890 is illustrated by its retaining a larger proportion of its natives.

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census year in which the largest percentage of natives was found residing in another part of the country was the period of maximum emigration. On this assumption that period for each of these states was as follows:

PERIOD OF MAXIMUM EMIGRATION.

Before 1850.	1850–1860.	1860–1870.	1880–1890.
Rhode Island,	Vermont,	New Hampshire,	Maine,
Connecticut,	Massachusetts,	New York,	Indiana,
New Jersey.	Pennsylvania.	Ohio,	Illinois.
		United States.	

For all but three states, therefore, the period of greatest emigration was earlier than 1870.

A bit of corroborative evidence covering a slightly longer period of time is furnished by the records of the migration from New England to New York State. By combining information contained in the census reports of New York with other figures from the national census returns, the number of natives of New England resident in New York at successive periods is found to have been as follows:

Date.	Total Natives of New England in United States.	Number in New York State.	Per Cent of Total.
1845	2,660,441 [1]	228,881 [2]	8.60 [1]
1850	2,821,823 [3]	206,630 [3]	7.32
1855		207,539 [2]	
1860	3,144,588 [3]	177,981 [3]	5.66
1865		166,038 [2]	
1870	3,293,003 [3]	138,812 [3]	4.22
1875		142,136 [2]	
1880	3,643,424 [3]	133,272 [3]	3.63
1890	3,897,003 [3]	116,005 [3]	2.98

Thus, while the total number of natives of New England has steadily increased, the number residing in New York State

[1] Estimated.
[2] As given by New York State Censuses.
[3] As given by United States Censuses.

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has fallen almost one-half, so that of the total natives of New England in the country the proportion residing in New York, as shown by the last column above, is hardly more than one-third of what it was half a century ago.

Interstate migration, then, has relatively decreased during the last score of years both in the country as a whole and in nearly every one of the states east of the Mississippi.

II.

As regards the conclusion just reached it may be said that, even if interstate migration has decreased, it does not follow that what may be termed the mobility of the population, or the tendency to abandon the place of birth, has also decreased. It may simply have expressed itself in a different manner. While the dominant form of migration prior to 1870 was that from east to west, the dominant form since that time has been from the country to the city. The former usually oversteps state lines; the latter, less regularly. The decrease of interstate migration, then, may be due merely to an increase of what may be termed intrastate migration. This hypothesis[1] seems the more plausible since the states in which large cities have sprung up or have rapidly increased are, generally speaking, the same as those from which a smaller proportion of emigrants than heretofore has gone out.

This criticism, it may be observed, does not deny the main conclusion here contended for, that interstate migration has decreased; rather, it raises a doubt concerning the proper interpretation of that fact. It might, therefore, be ignored, and the reader left to draw inferences for himself in explanation. Such a course would be the more prudent, since it must be acknowledged that no conclusive answer to the criticism can be wrung from our national census reports. There is no way of determining with accuracy for the whole country the amount

[1] See a striking article in *The Forum*, August, 1895, on "The Drift of Population to Cities," by Henry F. Fletcher.

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of migration from the small towns and rural districts of a state to the cities of the same state. In the gathering of information by the national census authorities each state has been treated as a unit, and intrastate migration ignored. Yet, in default of information for the whole country, the facts for New York State, Massachusetts and Rhode Island, derived from their state census reports, suggest the inference that the criticism is invalid; and that the natives of those states, at least, and presumably of others in their neighborhood, are increasingly disposed to remain in the counties or towns in which they were born.

In the New York censuses of 1855, 1865 and 1875 (unfortunately, no census worthy of the name has been taken in New York since 1875), the county was treated as the unit, and the county of birth was recorded for each native of New York State. From these data the following table has been constructed:

Date.	Total Natives of New York in the State.	Number Residing in County where Born.	Per Cent of Total.
1855	2,219,809	1,637,903	73.8
1865	2,642,055	1,998,492	75.8
1875	3,202,704	2,205,719	78.2

During this score of years the proportion of the natives of New York who remained in the county of birth steadily increased. But it must not be forgotten that a state census can take cognizance only of the persons residing within its limits, and that during the above period from half a million to a million natives of New York were residing in other states and territories. I have attempted to introduce a correction by assuming that the number of natives of New York State resident in other states at the date of each state census was the mean between the numbers reported by the national censuses just before and after. By the aid of this assumption I have constructed a table and computed the following percentages:

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PERCENTAGE OF THE TOTAL NATIVES OF NEW YORK STATE LIVING IN—	1855.	1865.	1875.
County of birth	56.0	55.3	57.8
Some other county of New York .	19.9	17.8	16.0
Some other state	24.2	26.5	26.2

This indicates that the proportion of the total natives of New York State residing in the counties where they were born decreased between 1855 and 1865, and that this was owing to the great increase of interstate migration; for the intrastate migration, it will be observed, decreased. It further shows that between 1865 and 1875 the proportion of the natives of New York staying where they were born increased with some rapidity. These figures do not apply to the last twenty years; but just when the New York censuses fail us the Massachusetts censuses begin to be especially valuable.

In Massachusetts, the town, not the county, is the unit in determining birthplace. The facts contained in the Massachusetts census reports of 1875 and 1885 may be expressed more simply than those for New York, as follows:

	1875.	1885.	PER CENT OF INCREASE.
Natives of Massachusetts whose birth-towns were known .	973,011	1,104,733	
Born in towns where residing .	596,971	700,813	17.4
Born elsewhere in Massachusetts	376,040	403,920	7.4

This shows that during the ten years preceding 1885 the number of migrants from town to town, but within the state, increased less than half as fast as the number who remained in the towns of their births. It has already been said that the proportion of natives of Massachusetts who migrated to some other state reached its maximum in the decade 1850–1860, and has steadily decreased since. The above facts show that intrastate migration has been decreasing during the only decade for which the facts can be ascertained. On the assumption that the number of natives of Massachusetts living in other states in 1875 and 1885 was a mean between the number reported by the national censuses of 1870, 1880 and 1890, the following table may be computed showing

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Percentage of Total Natives of Massachusetts Living in —	1875.	1885.
Town of birth	48.61	51.00
Some other town of Massachusetts . .	30.62	29.46
Some other state	20.77	19.54

This indicates that the mobility of the native population of Massachusetts is slowly decreasing; and in Rhode Island, the only other state in the country, I believe, affording like information, similar results appear.

These figures bring out the remarkable extent of the migratoriness of native Americans. In New York State probably about two-fifths of the native population leave the counties where they are born; in Massachusetts about one-half abandon the towns of birth. It must be remembered, moreover, that these figures include persons of all ages. The migratory tendency of children under ten, or even under fifteen years of age, is much below the average. To be sure, they are often carried with their parents from the places of birth, but the parents themselves are less likely to migrate than unmarried or childless persons of the same age. The time that has elapsed since birth is also an element. The older one is, the less likely he is to be a resident of his birthplace. Hence if adults alone were considered, the migratory tendency would be expressed by much larger figures than those above.

Nevertheless, the general conclusion to which the facts point is that the mobility of the population of the Eastern states, as measured by the migration from state to state, from county to county, or from town to town, is slowly decreasing.

On the contrary, the information at hand leads me to believe that on the continent of Europe internal migration is increasing. This is certainly true of Sweden, Switzerland, Belgium and France. For example, the proportion of the population of France born in the *département* of residence was:

	Per Cent.
1866	88.4
1876	85.7
1886	84.0
1891	83.2

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England shows an almost unchanging internal mobility of population. The percentage of the population born in the county of residence in England and Wales was:

	Per Cent.
1871	74.04
1881	75.19
1891	74.86

These percentages suggest that the maximum mobility of the English population may have been reached in 1871–81. While the English counties and the French *départements* are much too large and too populous for their internal migrations to be fairly comparable with the intercounty migration in New York, the mobility of the natives of the United States is certainly much greater than that of the natives of continental Europe, and probably greater than that of the English. If the mobility of the population of western Europe is slowly increasing, while that of the eastern United States is slowly decreasing, it is but another illustration of the general fact, often brought to the notice of the student of social statistics, that the social and economic conditions of the two regions are in various ways approximating.

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FIVE CENTURIES OF LIQUOR LEGISLATION IN ENGLAND.

I. *Development of the Licensing System.*

PARLIAMENT, which is now once more confronted with the problem of the regulation of the liquor trade, has been enacting measures to the same end since the middle of the thirteenth century. Until the middle of the sixteenth century, however, it imposed no check on the establishment of alehouses, contenting itself with fixing the price of beer according to the price of barley, and with giving the local magistrates powers to suppress disorderly alehouses. During this period the old municipalities also made some regulations for the control of these resorts, and imposed on alehouse keepers various duties and responsibilities.

The first legislative measure intended to restrict the establishment of new houses for the sale of beer was passed in the last year of Edward VI. The multiplication of alehouses and tippling houses was then, in the opinion of Parliament, causing intolerable hurt and trouble in the commonwealth ; and to prevent the continuance of this evil, it was enacted that no one should keep an alehouse unless licensed by the magistrates, and unless he gave recognizances for good behavior. Recognizances were abandoned in the early years of this century ; but since the act of Edward VI, except for a period between 1830 and 1869 when there was a system of free trade in beer, the local magistrates have always had a controlling voice in the licensing of drinking houses. This earliest of measures connecting the magistrates with the licensing system also provided penalties in cases where persons sold beer without magisterial permission. Such offenders were to be lodged in the common jail for three days, and were to give security not to repeat the offense.

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For the next half-century Parliament gave little attention to the regulation of the trade. In the reign of James I the subject was again taken up, and several acts were passed aiming to regulate the traffic inside the licensed houses. The earliest of these acts, passed in the first year of James I, sought to define who should use public houses. It declared that the "ancient and true and principal use" of inns, alehouses and victualing houses, was for the "receipt, relief and lodging of wayfaring people," and for supplying the wants of such people as were not able to provide their own victuals; and further, that alehouses were not meant for the entertainment and harboring of "lewd and idle people, to spend and consume their money and their time in a lewd and drunken manner." Travelers were to be accommodated and entertained, as were persons invited by a traveler during his necessary stay. Laborers and handicraftsmen, on their usual working days, were also to be received for an hour at dinner time "to take their diet"; but others, who frequented alehouses only for tippling, were not to be received, and the harboring of them by an alehouse keeper or an innkeeper made him liable to a fine of ten shillings. There was in this enactment no recognition of a convivial use of an alehouse, except so far as the entertainment of a traveler's guests might come under that term. The fines collected under this act were to go to the benefit of the poor.

The next act, passed in 1607, was aimed at brewers who sold beer to unlicensed retailers. Such brewers were made liable to a fine of six shillings and eightpence. The act also set up a penalty for drunkenness, in a form which was continued until the middle of the present century. Drunkenness, in the opinion of this Parliament, was a "loathsome and odious sin" which had of late "grown into common use," and was the "root and foundation of many other enormous sins, such as bloodshed, stabbing, murder, swearing, fornication, adultery and such like, to the great dishonor of God and of our nation, and to the overthrow of many good arts and manual trades." Accordingly "all and every person" convicted of drunkenness

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was made liable to a penalty of five shillings, to be paid within a week to the churchwarden for the use of the poor. If the culprit refused to pay, a distress was to be levied upon his goods; if he had no goods, he was to be placed in the stocks for six hours. Furthermore, persons who haunted alehouses contrary to the previous act were made liable to four hours in the stocks.

These first two measures of James I seem to have had little effect in diminishing drunkenness, and in 1610 another effort was made to reach alehouse keepers who offended against the existing laws. It was set out in this act that notwithstanding all former laws and provisions, the "inordinate and extreme vice of excessive drinking and drunkenness doth more and more abound." To check it, any alehouse keeper who offended against the earlier acts of the reign was, on conviction, disabled from keeping an alehouse for a period of three years.

Each of the three laws just described was enacted originally for a limited time. At the end of the reign of James I a further act made their provisions permanent, and all three were still on the statute book when the licensing system was overhauled in 1828.

Early in the reign of Charles I tavern-keepers and wine-sellers were brought within the scope of the acts of James I; and in 1627 a measure was passed for making more severe the penalties for violations of these acts. For those days the fines for unlicensed selling were large, and as experience showed, they could seldom be recovered. Moreover, when the offenders were sent to jail in default of payment, the cost of keeping them there, and also the cost of maintaining their families, fell on the parish. This expense made both constables and churchwardens chary of enforcing the law. Already, as we have seen, imprisonment in the stocks had been established as a punishment for people too poor to pay the fine of five shillings, when convicted of drunkenness. By the act of 1627 corporal punishment was provided for those who had sold ale without a magistrate's license and were unable to pay the fine. They were to be openly whipped; and if a

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constable neglected to put the law in operation, or failed to whip a defaulter, the constable was to be sent to jail and kept there until by his procurement the person convicted of the illicit sale was whipped. Cider and perry were, by this enactment, also brought within the scope of the licensing laws; so that by 1627, all keepers of alehouses, inns and wine-houses, and all retailers of cider and perry — all, in fact, who then sold drink to be consumed on the premises — had been brought within the jurisdiction and under the control of the magistrates.

After the act of 1627, more than a century elapsed before Parliament passed another important measure for the policing of the liquor trade. One law enacted within this period — an excise measure rather than a police measure — is, however, noteworthy on account of one of its exemptions. It was an act authorizing the appointment of commissioners to grant licenses for the sale of wine by retail; and the borough of St. Albans was excluded from its provisions, for a somewhat curious reason. The ancient Hertfordshire borough, it appears, held charters from Elizabeth and James I, authorizing it to erect, appoint and license three wine taverns, the profits from which were to go to the maintenance of a free school. The imperial exchequer is to-day furnishing technical education to thousands of young people throughout England by its annual grant of "the beer money" to the county councils; but the St. Albans case seems to be the first in which a municipality devoted to public education money derived from the sale of intoxicating liquor. This exemption of St. Albans from excise legislation continued for centuries and was formally rëenacted as recently as 1869. The universities also have enjoyed exemption from many of the licensing laws.

The earliest measure passed in the eighteenth century with a view to regulating and restricting a department of the liquor trade was that of 1736. At that time Parliament was alarmed at the drinking of spirituous liquors, which had become "very common, especially among the people of lower and inferior rank." It was apprehensive that this constant and excessive

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use of spirits was tending greatly to the destruction of the health of the laboring classes, and "rendering them unfit for useful labor and business; debauching their morals and inciting them to all manner of vices." To restrict what was then regarded as a national vice, Parliament established a system of high license. Retailers of spirits in quantities of less than two gallons were compelled to take out excise licenses costing fifty pounds a year. At the same time it was made a criminal offense for an employer to retail spirits to any of his workpeople, or to pay any part of their wages in spirits. Licenses were issued only to persons who followed no other trade than that of keeping public houses; and before they could obtain excise licenses, magisterial licenses had to be obtained from the justices of the peace. By the same measure, persons giving away spirituous liquor to servants or apprentices who had come to their shops for goods, were deemed to be retailers, and were made liable to the penalties imposed on those who sold spirits without a license.

A year later, as the "immoderate drinking of distilled spirituous liquors by persons of the meanest and lowest sort" was still on the increase, "to the great detriment of the health and morals of the common people," another act was passed to restrict the number of houses at which spirits might be sold. Two provisions, new in licensing legislation, were embodied in this act of 1737. One established a rating qualification for the holders of licenses; the other excluded brewers, innkeepers, distillers and dealers in spirits from sitting as local magistrates when applications for licenses were being heard. Both these provisions are in the modern system; although during the free-trade era the rating qualification was abandoned in the case of houses in which only beer was retailed. The intention of the act of 1837 was to better the class of houses at which spirits were sold. It made it impossible for retailers of spirits legally to collect bills under one pound; and it imposed heavy penalties on retailers who took articles in pawn in payment for drink.

In 1753, the laws concerning alehouses, inns and victualing

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houses were still regarded as defective, and Parliament made another endeavor to weed out people of doubtful character engaged in the liquor trade. The system of compelling license-holders to give securities for the good order of their houses, first adopted in the time of Edward VI, was revived ; and an applicant for a license was compelled to give a bond of ten pounds himself, and to find two other sureties in five pounds each. Further, he had to obtain a certificate signed by the vicar and the majority of the churchwardens and overseers of his parish, or else by three or four reputable and substantial householders, inhabitants of the neighborhood in which the alehouse was to be established, setting forth that he was a person of good fame and of sober life and conversation. It was also stipulated in this act that the license was for a year only and was subject to yearly renewal by the magistrates. A man whose recognizances were broken was disabled from inn-keeping for three years.

This act of 1753 remained in force until 1828. Its clauses referring to the clergy help to explain how it was that in the closing years of the last century the clergy in the large towns, such as Manchester, were able to bring pressure on the publicans to prevent them from allowing their houses to be frequented by the advocates of Parliamentary reform.[1] It is obvious that the act of 1753 placed the publicans almost as much in the hands of the clergy of the Church of England as in those of the magistrates. The granting of a license was entirely within the discretion of the local magistrates, and until well on in this century there was no appeal from them. Yet without the clergyman's sanction an applicant for a license could not hope to get his application before the magistrates.

Two other acts in the reign of George II are significant. One compelled retailers of beer in workhouses, prisons and houses of correction to take out licenses. In some of these places the consumption of beer in the days of the unreformed poor-law and unreformed prisons must have been large ; for as late as Lord Kenyon's tenure of the chief-justiceship of the

[1] Prentice, Personal Recollections of Manchester, pp. 7 and 8.

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King's Bench, which lasted from 1788 to 1802, the privilege of supplying beer to prisons was regarded as political spoils, and was sought by one of the largest brewing concerns in London as a reward for political services rendered by the firm. The other act, like that of James I, took cognizance of what was going on inside licensed houses, and forbade license-holders to permit laborers, journeymen, servants or apprentices to play cards, dice, draughts, shuffle-board, billiards, skittles or ninepins within their houses, outhouses, grounds or apartments.

Little change was made during the reign of George III. In 1798 an act was passed which in itself is evidence that many magistrates in the old municipal corporations were disqualified from adjudicating licensing cases by reason of their direct or indirect connection with the liquor trade. It provided that where borough magistrates were thus disqualified, justices for the county at large, who under ordinary circumstances had no jurisdiction in incorporated towns, should, at the request of the chief magistrate, take part in the licensing business before the borough bench, all law, custom or usage notwithstanding. The years of political unrest which followed the peace after Waterloo, when the Reform agitation once more disturbed the country, left their mark on licensing legislation in the shape of an act in 1817, which empowered the local magistrates, after evidence on oath that a political meeting had been held at a public house, at once to declare the license forfeited. This was one of a series of exceedingly drastic measures intended to put down popular agitation. It served this purpose effectually for some years after it was passed ; and, although there was little or no need for it after reform was conceded in 1832, it lingered on the statute book until 1890.

Even before Parliament had begun to take cognizance of the liquor trade, custom and the requirements of the old municipal corporations had imposed some responsibilities on the keepers of alehouses and inns, such as the entertaining of travelers and the reception of dead bodies on which coroners' inquests were to be held. As time went on Parliament added to these

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responsibilities, and also set up some disabilities in the case of publicans. In 1760 they were compelled to provide accommodation for soldiers; and in 1812 they were disqualified from holding any non-commissioned officer's place on the permanent staff of a militia corps. Later, after the licensing laws had been consolidated in 1828, the office of parish constable was added to the list of those which could not be held by a publican.

The consolidation act of 1828 still forms the basis of the English licensing system. It repealed most of the old laws, but the principle of magisterial control, established by the act of Edward VI, was embodied in the new measure; and although a departure from this principle was made from 1830 to 1869 in the case of beerhouses, as distinct from fully licensed inns, and an innovation in the direction of central control was threatened in 1871, the magisterial system exists to-day in much the condition in which it was fixed by the act of 1828. The important change made by this act consisted in the provision for a special meeting of the magistrates to be held within a stated period each year to pass upon applications for licenses. Other amendments gave applicants an appeal from the local bench to Quarter Sessions,[1] while previously the decision of the local magistrates had been final, and abolished the requirement of sureties for good behavior and of clerical certificates as to the sobriety of life and conversation, which had been important features in the act of 1753. It was stated in behalf of the government, when the measure of 1828 was pending in Parliament, that these last-mentioned requirements had been found vexatious to applicants, and of no security to public order.

Under the system established by the act of 1828 the magistrates hold a meeting yearly at which the only business is that of licensing. Notices convening these meetings are affixed to the doors of the churches and chapels within the area over which the magistrates have jurisdiction. By the act

[1] In the county the magistrates who meet in the petty sessional divisions for the administration of summary justice and of the licensing laws also meet in Quarter Sessions for the hundred; but the appeal from the local magistrates to Quarter Sessions is to a higher court, and to one with a much larger jurisdiction.

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of 1737 brewers, distillers, maltsters and retailers of excisable liquors were ruled off the bench when licensing applications were heard; and the act of 1828 extended this disqualification to owners of houses in respect of which applications for licenses were to be made, to the managers or agents of brewers, distillers and maltsters, and to magistrates who were, either by blood or marriage, fathers, sons or brothers to any engaged in these trades. At one of these annual meetings of the magistrates the applicant for a license presents his case. Usually nowadays he is represented by a lawyer, and in the case of a new application testimony as to the need of the proposed new license is submitted. The applicant is compelled to exhibit a notice on his premises announcing that he is applying for a license; and when the case comes on for hearing in open court, neighbors who are opposed to the establishment of a public house near them lay their opposition before the magistrates. The question of granting or withholding the license is determined by a vote of the magistrates. Each magistrate voting in the majority for the granting of the application signs the certificate. With this in his possession the applicant goes to the commissioners of excise, and having procured their license, which they have no option in granting after the certificate is presented, he is in a position to open his house for the particular business for which he has obtained magisterial permission. Every license is granted for a year only, and must be renewed at the annual meetings of the magistrates.

Although the act of 1828 was intended as a consolidation and definite settlement of the licensing system, the adjustment reached was destined to a shorter career than that effected by any of the numerous preceding acts. It had hardly got into working order before a serious inroad was made on the system of magisterial control, and a principle which had been at the foundation of the whole licensing system was set aside. An era of free trade in beer began, which with some modifications and restrictions lasted for forty years.

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II. *The Era of Free Trade in Beer.*

The grounds on which the Wellington administration supported the radical change which was thus unexpectedly made in 1830, were partly fiscal and partly social. First, some readjustments were being made in the revenue system. The government were about to remit taxation to the amount of three millions sterling, and, in doing so, were anxious that the benefit should accrue to the working classes. Such a sum was annually received from the beer tax, and the government decided to give up this tax entirely. They were afraid, however, that as the licensing system then stood, the greater part of this remission would find its way into the pockets of the brewers. At that time the control of the brewing industry by great joint-stock companies did not extend, as it now does, throughout the whole country; but in London there were a number of firms possessed of enormous capital, which had tied to them most of the inns and beerhouses licensed under the act of 1828 in the metropolis. England was then divided into sixty districts for the collection of excise. In the London district there were nearly 5000 publicans, of whom only thirty-nine brewed their own beer. In the ten counties adjacent to London there were nearly 10,000 publicans, only 820 of whom brewed beer at home.[1] But in the more remote counties the connection between the breweries and the inns and alehouses was not nearly so close. Of 14,800 publicans in Wales and the seven adjoining counties, 12,500 brewed their own beer. At the present time the tied-house system, under which brewery companies purchase alehouses and place managers in them, or attach houses to breweries by loans and mortgages, is common all over England. It is safe to say that not more than twenty-five per cent of the inns and beerhouses are free from the brewers. In 1830 the tied-house system was confined to London and the home counties. In these places, however, the brewers' monopoly was undisputed, and it afforded the government some ground for the apprehension that if the beer tax were remitted, the greater part

[1] These figures were laid before Parliament in 1828.

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of the remission would go into the pockets of the brewing firms.

A further reason for the new policy, and one which was emphasized as much as the desirability of preventing the brewers from enriching themselves, was the dread that the poorer classes were becoming victims of the spirit-drinking habit. This fear had stamped itself on several acts passed since the time of George II, and in 1830 it was very prevalent, owing to the great consumption of gin by the laboring classes in London. There seems to have been at this time only one member of the House of Commons who was opposed to the drinking of all intoxicating liquors, and who took the stand towards the drink trade which Sir Wilfrid Lawson has taken since the sixties. This was Mr. Silk Buckingham. He seems to have been the pioneer of the temperance movement in Parliament; but in 1830 he stood alone. No other member raised any objection to beer-drinking by the working classes; that was regarded as the normal order of things. What the government desired to suppress was gin-drinking, and one of their principal reasons for remitting the beer tax was to bring about the substitution of wholesome beer for gin as the drink of the working classes.

As soon as the intentions of the government in regard to free trade in beer were announced, a great outcry was raised not only by the retailers but also by the magistrates, who, under the proposed law, were to be deprived of a control over alehouses which the magistracy had exercised since the time of Edward VI. Hundreds of petitions were presented to Parliament from keepers of inns and alehouses licensed under the act of 1828. Speeches in support of petitions were then in order in the House of Commons, and some of the spokesmen of the spirit trade declared that throwing open the sale of beer to all comers would in London alone entail a loss to the trade equal to two millions sterling. It was argued, also, that people had begun keeping inns and alehouses on the faith of the settlement made by the act of 1828, and that if they were disturbed by the sweeping change contemplated by the government,

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they were entitled to compensation. This was the first time that the plea of vested interests in the liquor trade was put forward in Parliament; but frequently since, when reform of the licensing system has been proposed, the opposition has laid great stress on this plea.[1]

Little heed was paid in 1830 to the cry of vested interests. Those who raised the cry were then bluntly told that it was absurd to talk of vested interests in a trade, the regulation of which might at any time be varied by Parliament for the public good. The fact was also recalled and emphasized that the Parliamentary regulation of the trade had been made, not for the protection of the trade, but solely for police purposes. It was admitted that the brewers had turned these police regulations to their profit; but because they had done so, and had built up monopolies by means of them, they had no right to demand that Parliament should make the regulations perpetual.

The bill was the occasion of more discussion in Parliament and of more commotion in the country than any other measure — excepting Catholic Emancipation and Parliamentary Reform — dealt with by the unreformed Parliament in the last thirty years of its existence. Nearly five hundred petitions were lodged against the bill, whilst there were fewer than ten in its favor — a circumstance which shows that the working classes were not aware of the boon which the government had in store for them. The working classes, it is true, had then no Parliamentary repre-

[1] In 1888, when the Local Government Bill was introduced into the House of Commons, it embodied a scheme for taking the control of licensing out of the hands of the magistrates, and giving it to the county councils. In this measure, however, the government had anticipated the cry of vested interests. One of the clauses bringing about the transfer empowered the county councils to suppress public houses which no longer met a public need. A compensation scheme accompanied this proposed change, and the funds out of which compensation was to be paid were to be raised by a tax on the remaining public houses in the locality. The temperance party in the House of Commons, however, strenuously objected to the recognition of vested interests contained in the compensation clauses. They relied on the fact that all licenses are granted only for a year, and scouted the idea of compensation. As a result of this opposition the entire plan was abandoned, and the control of the retail liquor trade was left where it had been since the sixteenth century.

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sentatives, and there was no cheap press; but on other questions they were, even at this time, accustomed to petition Parliament, and they were adepts in the use of public meetings and popular demonstrations.

At every stage the representatives of the trade and those of the magistrates opposed the bill. The county magistrates in particular regarded it as an expression of want of confidence in them; and complained that free trade in beer would deprive them, as conservators of the peace, of the opportunities they had so long enjoyed of keeping watch over poachers, smugglers and other rural bad characters. So long as the magistrates had it in their discretion to grant or to withhold alehouse licenses, and so long as the keepers of these places were compelled at least once a year to appear before them, the magistrates held that they had especial facilities for maintaining order among the frequenters of public houses, and for exercising a salutary check on the landlords.

Despite the outcry in the country and the opposition in Parliament, the government persevered with the bill, and used their majority to force its passage. When the opposition realized the intention of the government, they persistently endeavored to whittle down the bill in committee. As it was drafted, any person who could pay a small excise-license fee was to be at liberty to open a beerhouse. The opposition sought to restrict the holders of these licenses to selling beer not to be drunk on the premises; but the government resisted the amendment, and in doing so had the support of those Radicals who were then known as the "Economists." The opposition next sought to set up a rate-paying qualification. Lest every laborer's cottage should be turned into a beerhouse, a fifteen-pound rating qualification was proposed. The government voted this down, on the ground that it would be unequal in its operation in town and country. Up to this time there had been no Parliamentary enactment fixing the hours at which alehouses should be closed. The opposition to the beer bill proposed that the new houses should close at ten o'clock at night. But this proposition shared the fate of all the other

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proposed amendments which aimed to limit the scope of the free-trade experiment.

In the House of Lords, several of these amendments were revived; but with no success. The Duke of Wellington had charge of the bill, and he advanced as reasons in its favor that it would reduce the price of beer, and separate the sale of beer from the sale of spirits. One significant clause was inserted at the instance of the chief-commissioner of woods and forests — a state department which has the management of crown property. In previous crown leases there had been provisions prohibiting lessees from using crown property in the liquor trade. The clause inserted in the beer bill provided that the new houses should be on the same footing as the then existing alehouses so far as prohibitory clauses in leases were concerned. This was intended for the protection of crown property, of which at that time there was a large amount in the West End of London. In one other particular the new beerhouse keepers were placed on the same footing as publicans; for it was provided that soldiers could be billeted on them under the provisions of the Mutiny Acts.

Within four years of the passing of the act 33,000 beerhouses came into existence. If the discussions in Parliament in 1833 and 1834, and the questions addressed to ministers, afford trustworthy indications, the new system was the cause of widespread demoralization, especially in the small towns and the rural districts. In 1833 the feeling against it was strong enough to secure the appointment of a Parliamentary committee of inquiry; and by 1834 there was a great agitation for the repeal of the act. It was then asserted that in London and the counties in the neighborhood of London most of the new beerhouses were in the hands of the large brewers, that the beer usually sold was most unwholesome, and in short, that the act had signally failed, and had engendered enormous social abuses. In the country it was complained that it had caused beerhouses to be opened in the most remote places; that these houses had become centers of disorder; and that in connection with the act there were no provisions for

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police surveillance. The county magistrates had never liked the act, and in 1834 the magisterial benches all over the country were petitioning for its repeal.

Great pressure was brought upon the Melbourne administration to repeal the act, and in the early days of the session of 1834 questions were put to ministers which seemed to indicate an expectation that the government would yield. The committee of 1833 had made some recommendations with a view to amending the act. The most important of these was that all houses for the sale of liquor should be under the same regulations. The government, however, so far as their own initiative was concerned, ignored both the committee and the agitation, and left the amendment of the act to private members. Sir Edward Knatchbull, a Tory member for one of the county divisions of Kent, brought forward a bill to this end. It was welcomed and supported by the government, but it was not made a government measure, and it was opposed at every stage by the Radicals who had upheld the Wellington government in 1830. Attwood, one of the Radical group, described the amending measure as a concession to old women's talk.

The important changes brought about by Sir Edward Knatchbull were three in number : one required each applicant for an excise license to produce a certificate of good character from six householders, signed also by the overseer of the poor ; a second fixed the hour of closing at ten o'clock at night ; and a third gave the police power of entry similar to that exercised in connection with public houses licensed under the act of 1828. A score of other amendments, all aimed at crippling the act of 1830, were offered when the bill was in Parliament. The three described were, however, the only ones of any importance adopted, and with these amendments the act remained unaltered until 1840.

In these intervening years the question was never at rest. It was raised each year, and in 1839 the House of Lords adopted a resolution calling for a return to the old system. In 1840, as in 1834, the government were pressed to deal with

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the question; but, as in 1834, and as has been the case with every government since, the second Melbourne administration showed great unwillingness to identify itself with reform of the licensing system. Once more a private member stepped into the breach. This time it was Mr. Pakington, a Tory member for one of the Worcestershire boroughs, who described his bill as one to check "the unfortunate and pernicious system which most notoriously and in the sight of all in every town and county was undermining the morals and sapping the virtue of the artisans and laborers." Again, as in 1834, it was declared that the act of 1830 had failed to meet any of the expectations of its promoters. The number of beerhouses had risen to 45,000; in some parts of the country one house in every five had become a beershop. The Pakington bill proposed a rating qualification for beerhouse licenses. As in 1834, the proposition was strenuously opposed by the Radicals; but the government held aloof, and with some alterations in detail the bill was carried. Many of the restrictive amendments proposed in 1830 and 1834 were moved in debate, but the only changes actually effected by the bill were in the direction of improving the character of houses to which licenses were granted. Only the actual resident was to be capable of holding a license. In all towns of more than 10,000 inhabitants licenses were to be granted only in respect of houses which were of a ratable value of £15 or over. In places with a population between 2500 and 10,000 the ratable value was fixed at £11; and in smaller communities at £8.

This second amending act brought no settlement of the free-trade question. In the fifties the experiment was once more the subject of agitation. In 1850 a committee of the House of Lords reported that under the system the morals of the working people were being seriously impaired; and in 1854 another committee of the House of Commons recommended the abolition of the distinction between beerhouses and public houses, and that both should be under the control of the magistrates. In 1857 the government promised to deal with the question; but despite this promise, the recommenda-

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tions of the Parliamentary committee and the activity of private members, no reform was effected until 1869.

In the meantime, the Liverpool magistrates, acting under the law of 1828, tried a system of free trade in fully licensed houses. For a period of four years they gave a public-house license to every applicant who could bring a certificate as to character, so that Liverpool had a system of absolute free trade in beer, wine and spirits. The net result of the two experiments was that, between 1860 and 1870, Liverpool stood unmistakably preëminent among the seaports of the country for drunkenness and crime. The double experiment was a failure; and when the question of free trade in beer was again raised in Parliament, Liverpool was among the foremost petitioners for reform.

In 1869, as in 1834 and in 1840, reform was discussed at the instance of a private member. A bill was introduced by Sir H. Selwyn Ibbetson, which went much further than the acts of 1834 and 1840, and provided for the total abolition of the system under which people could establish beerhouses on mere certificates granted by the excise department. By 1869 the beerhouses had no Parliamentary friends. Hume, Warburton and the rest of the "Economists" had passed away, and the Radicals of the era of the second Reform Act had other views with regard to free trade in beer. The Gladstone government at once accepted Sir H. Ibbetson's bill, limiting its operation, however, to a period of two years, as it was their intention within that time to deal more comprehensively with the whole subject of licensing. Members on both sides of the House vied with one another in insisting on the need of making an end of the experiment of 1830, and the one member who opposed the bill found with difficulty another member to act with him as teller against it in the division lobby. The act came into operation in July, 1869; and once more, as had been the case from 1627 to 1830, there was a uniform system of magisterial control, so far as concerned the granting of licenses.

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III. *The Existing System.*

The act of 1869 put an abrupt end to the system which had been tried for nearly forty years. The existing beerhouses were, however, permitted to continue. At the present time there are, roughly speaking, 32,000 of them, forming about one-third of the total number of licensed houses in England and Wales; and in at least one important respect they hold a securer position before the law than the houses licensed under the act of 1828 and under the amending act of 1872. The holders of these beerhouse licenses have still to make annual applications to the magistrates for renewal; but the magistrates have less power in dealing with them than with the fully licensed houses. In case of the latter, a license may be withheld by the magistrates when they are of opinion that there is no longer public need for the house. With the beerhouses, on the other hand, the magistrates have not this discretion; so long as the holder of a beerhouse license conducts his place to the satisfaction of the police, and does not come into conflict with the licensing laws, the magistrates cannot withhold his license. This is a legal relic of the free-trade system. Other more obvious relics in all the large towns are the scores of houses — many of them no larger than laborers' cottages — in which is sold beer only.

In 1871 the government introduced the bill promised in 1869, when the Ibbetson Act was before Parliament. This measure, the first government licensing bill since 1830, failed to pass; and it is now memorable only because it embodied a bold departure in licensing proposals, and because it marks the time when, under the enlarged Parliamentary electorate of 1867, the liquor trade became a force in English politics. At the basis of the bill was a conviction that the existing mode of granting licenses was not the fairest and the best. Personal considerations, it was urged, often weighed with the magistrates in granting or withholding licenses; and while it was not proposed to take licensing entirely out of their hands, a system was to be established under which personal or

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partisan considerations could have no weight. The magistrates were to determine the number of licensed houses for their districts, and having done this, they were to sell the certificates to the highest bidders. The certificates were to be good for ten years, and the holders were to be allowed to do business where they chose. It was obvious that under this plan only men of comparatively large capital could engage in the retail liquor trade ; and to make it easy for a capitalist to turn his certificates to account, it was provided that the certificate-holder himself need not live on the premises where liquors were sold. All that was necessary was that he should be represented there by a responsible manager. The trade was immediately in arms against the bill. The publicans carried their demonstrations of hostility into Palace Yard itself, and as there was no popular support for the measure it was quickly abandoned. The publicans afterwards claimed that it was their opposition which vanquished the bill, and, further, that for nine months in 1871 liquor-trade influences settled every Parliamentary by-election. The trade, no doubt, was exceedingly active at the by-elections, but a measure of this kind was a danger to every holder of property, and could never have got through Parliament.

After their failure in 1871 the government were in no hurry to venture on another bill. They were, however, pledged to deal with the licensing question, and late in the session of 1872 they introduced — this time in the House of Lords — their second bill, which eventually became law. It was a comprehensive measure, imposing new responsibilities upon the magistrates, the police and the publicans ; but it was marked by no bold departure from the existing system. One of the most important of its provisions was that which established a comparatively high annual value qualification for all houses licensed after the passing of the act. In London and in towns of 100,000 population, full licenses were to be granted only in respect of houses of an annual value of £50; in towns of 10,000, for houses worth £30; and in smaller places, for those worth £15. What are known as six-day licenses also first came to existence

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under this act of 1872. These licenses are somewhat easier to obtain, and are subject to excise fees proportionally smaller than those for houses which are to be kept open on Sunday.

A provision of this act of 1872 which time has shown to be very important is that under which licenses may be removed from one part of a magisterial area to another. Magisterial sanction, however, must be given to each removal, and the householders in whose neighborhood a licensed house is thus to be established have the same right of objection as they have in a case where an entirely new license is sought. But there can be no doubt that this provision of the act has greatly benefited the brewers and the publicans. For twenty-five years past few new licenses have been granted by the magistrates. In many towns not a single new license has been issued in fifteen or twenty years; but under this clause of the act of 1872 there has occasionally been a thinning-out of licensed houses in the older and more squalid parts of a town, and a removal of a license to a suburb. Usually magistrates are as chary of sanctioning these removals as they are of granting new licenses; and it often happens that a large brewing concern, possessed of a number of tied-houses and anxious to get into new territory, will make a bargain with the magistrates to give up two, sometimes three, licenses attached to houses in neighborhoods where public houses are numerous, in order to obtain a license for a new house in a district which has grown up and developed since the free-trade experiment of 1830 came to an end, and since the policy of restriction became general with licensing magistrates all over England.

In regard to the hours of closing, some timidity was shown by the government in 1872. The question had been a disturbing one for many years. Up to 1864 the keepers of public houses had closed their places when it suited them. In that year an act was passed empowering the magistrates in London and the large towns, at their discretion, to close the houses between one and four o'clock in the morning. In the rural districts in 1872 there were no regulations. In the act of that year, the matter was still left, within certain limits, at the

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discretion of the magistrates. Not until 1874 were the hours for closing fully licensed public houses rigidly fixed by Parliament. In that year the act of 1872 was amended at the instance of the Beaconsfield government, and by the amending measure schedules of hours were established, applicable respectively to London, to the larger towns, and to the smaller towns and rural districts. In London, under this law, public houses are closed from midnight on Saturday until one o'clock on Sunday afternoon; from eleven o'clock Sunday night until five o'clock Monday morning; and on all other days in the week from half-past twelve until five o'clock in the morning. In the large towns, the public houses close from eleven o'clock on Saturday night until half-past twelve o'clock on Sunday; from ten o'clock on Sunday night until six o'clock Monday morning; and on the nights of all other days from eleven o'clock until six in the morning. In the smaller communities the hours of closing are from ten at night to six in the morning, except that on Sundays the houses are closed until half-past twelve. They are also closed, all over England, during part of Sunday afternoon — from half-past two in the provinces, and from three o'clock in London, until six o'clock in the evening. Bona-fide travelers, who, according to the law, must have journeyed at least three miles, are the only persons in whose favor these Sunday-closing laws make any exceptions.

The scheduling of the hours of closing was the last general change in licensing regulations made by Parliament. That the system as thus rounded out is not destined to endure long in its integrity, seems an easy inference from current political movements. But it is a long way from free trade in beer to unqualified prohibition; and the twenty-six years since the abolition of the former are not likely to have prepared the conservative English mind for even so much of the latter as is involved in the idea of the local veto.

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GEOGRAPHY AS A SOCIOLOGICAL STUDY.

I.

HUMAN history, says M. Taine, in his introduction to the *History of English Literature*, may be resolved into three factors — environment, race and epoch. That this analysis is substantially exhaustive appears from the unanimity with which these elements have been recognized by those who have considered the philosophy of history. Even the poet-philosopher, Herder, and the idealist, Hegel, do not hesitate to introduce their speculations by a description of the earth, its climates, and its material possibilities for civilization. Another arrangement of the elements of history is, however, made by M. Bertillon, who divides them into the "mesologic" influences of environment and the hereditary social forces.[1] On analysis this division does not differ widely from Mr. Bryce's classification of the factors in American history as physical environment, race characteristics and "international concomitants."[2] The importance assigned to these elements, however, varies widely with the man and the time. Hence it is doubtful if the followers of Carlyle or Mulford would agree with M. Leroy-Beaulieu that the causes of the present distribution of population in Russia are "twofold, historical and physical: the latter essential, permanent; the former *accidental*, transitory and consequently bound to yield to the others in the end."[3] But, whatever the relative importance assigned, all writers recognize environment as a fundamental factor. Most of them, however, after formally making mention of it in their introductory remarks, have dismissed it from further consideration.

The last decade has witnessed a marked change in this respect. A widespread revival of interest in geographical

[1] Bull. Soc. d'Anthropologie, Paris, 2d ser., VII, p. 711.
[2] The American Commonwealth, vol. ii, p. 455.
[3] The Empire of the Tsar, vol. i, p. 38.

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studies, especially in their relation to human history and institutions, is now under way among English-speaking peoples. The apostles of the movement have been the late historian, Mr. Freeman, and the eminent author of *The American Commonwealth*;[1] while several historical works of the last year evince the same interest in this phase of history. Mr. Payne, in his *History of the New World called America*, has shed a flood of new light upon an old theme.[2] Mr. Justin Winsor, in *The Mississippi Basin*, shows the geographical idea logically developed "with such firm insistence and with such happy results that he almost seems to have created a science for which as yet we have no name — which is capable of development even to the predictive stage."[3] The movement has even invaded the sacred precincts of Biblical literature in Smith's *Geography of the Holy Land*, which is in itself a wonderfully suggestive commentary upon the course of Jewish history.[4]

The real significance of this tendency in historical writing lies not in its novelty, for it merely revives an old idea, but in the fact that the initiative comes from the historians, rather than from the geographers or the economists. Geography has

[1] An interesting sketch of the geographical work of Mr. Freeman will be found in the *Geographical Journal*, London, for June, 1892. The province of geography in its relation to history is discussed by Mr. Freeman in his Methods of Historical Study; and his uncompleted History of Sicily shows the extreme development of the ideas found in his Historical Geography of Europe. Despite this tendency, we find a late reviewer (*Nation*, July 18, 1895, p. 50) declaring that "after all his everlasting insistence on the great external facts of the history of the western world, [he] erred chiefly in going no further."

[2] *Vide* review by Professor Giddings in POLITICAL SCIENCE QUARTERLY, vol. viii, p. 733.

[3] In dedicating the volume to the President of the Royal Geographical Society, he refers to the influence of physical geography in these words: "I would not say that there are not other compelling influences; but no other control is so steady." *Vide* review in *Nation*, July 25, 1895.

[4] Since this article was written, a discussion of the influence of environment upon history has appeared in W. D. Babington's Fallacies of Race Theories as applied to National Characteristics (Longmans, Green & Co., 1895). *Cf.* Cliffe-Leslie in *Fortnightly Review*, XVI, p. 753: "The doctrine of race not only does not solve the problems which really arise respecting national diversities of character, career and condition, but prevents those problems from being even raised."

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heretofore appeared in the guise of a suppliant for recognition at court. In fact, long before Comte refused to recognize it as a distinct science, it was the philosophers, Kant, Hegel, Voltaire, and not the historians, who acknowledged its importance.[1] The burden of proof in maintaining the value of geographic science for the historian has therefore rested in the past mainly upon the geographers; and their zeal for the association of geography and history has been under suspicion as probably due merely to a selfish desire to take over from the latter the human element, which alone renders their own field widely attractive.[2] On the other hand, there is a disposition among certain scientists to resent the implied subordination of geography to history; and to ascribe to such subordination in large measure the lack of interest in purely geographical studies.[3] Whatever the cause may have been, it is certain that until recently there were no geographical text-books in English which could not be classed either as topographical descriptions or else as miniature gazetteers. To be sure, the followers of Sir Charles Lyell had revolutionized the science of the earth; but at the same time they had transformed a large part of geography into dynamic geology. What was left was for a long time untouched by the life-giving influences of the comparative method.

The geography that is attracting the historian today is that which is defined by Gonner as "the study of the environments of man." It is the geography of Guyot and of Ritter, enlightened by the newly developed sciences of anthropology, archaeology, sociology and even statistics. Call it "physiography" —defined by Professor Huxley as the science of man in relation

[1] A concise history of geography as a science is given in the opening chapters of Fr. Ratzel, Anthropo-geographie, as well as in Proc. Roy. Geog. Soc., April, 1888, p. 205. *Cf.* POLITICAL SCIENCE QUARTERLY, IX, p. 321.

[2] A special report (*Geog. Jour.*, II, no. 1) on geography in the English Universities shows a slight demand for physical or descriptive as compared with that for historical geography. *Vide* letter of Mr. Bryce on the need for geographical instruction, in Roy. Geog. Soc., Supp. Papers I, part iv, p. 592.

[3] *Vide* Gen. Greeley's Presidential Address in *National Geog. Mag.*, VI, p. 201; and President Goldschmidt in Proc. Brit. Assoc. Adv. Science, Birmingham meeting; answered in Proc. Roy. Geog. Soc., March, 1887.

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to the earth, as distinct from geography, the science of the earth in its relations to man; "anthropo-geography," with Professor Ratzel; or "histo-geography," with other writers: all these names point to the same end. It should not be confounded with the economic (*wirthschaftliche*) and statistical geography of Zehden, Deville or Chisholm; the commercial geography with which the secretary of the Royal Geographical Society crowns his pyramid of geographical studies;[1] or the administrative geography of General Greeley and the *École Libre des Sciences Politiques*. Nor is it the political geography of the late Mr. Freeman, or of Dr. Lucas. In fact geography, in any of the familiar senses, is after all only one element in this new science, which is simply an attempt to explain the growing conviction so well expressed by Professor Giddings, "that civilization is at bottom an economic fact." As such the new discipline is subordinate to history and yet superior to it. It stands to history as anatomy does to art — and no one would claim that art is degraded because it makes use of the exacter science. This conception will protect the students of the new geography from the charge of materialism, and will answer any objection that they are dragging history in the dust. In this sense, then, geography becomes a branch of economic as well as of historical inquiry, deriving from that fact twofold importance.

II.

The history of this quasi-geographical study of human environment may be roughly divided into three periods, conditioned by the rise and acceptance of the theory of evolution.

The first period lasted until the appearance of *The Origin of Species*. Its great representatives were Ritter, Guyot and Alexander von Humboldt, who performed the necessary work of preliminary classification and description. They did the work in geography which Agassiz, Richard Owen and Sir J. Wm. Dawson performed in their respective fields and times;

[1] *Scot. Geog. Jour.*, II, p. 455.

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and their results were subject to the same limitation, namely, the lack of a general coördinating principle. They perceived the order in nature, but explained it all on the teleological basis. Africa and Asia were practically unknown ; no science of the human race had accumulated data ; and the speculations of these earlier thinkers, therefore, were necessarily of a very indefinite, albeit praiseworthy nature: from lack of proper material they were constrained merely to outline general principles.[1] The only other studies of a similar nature in this period were those of Quetelet and Bernard Cotta. These were to be sure definite and specific ; they contained to some degree the ideas of mass and averages ; but they were each limited to a small field.

The literature produced in the period just noticed was exclusively continental. The decade following 1859, which we may call the probational period for the doctrine of evolution, at first promised well for the extension of geographical studies into the English field. Ritter's works were received with great favor in translations ; and Guyot's Lowell Lectures awakened intense interest in America. No one thought of the lurking danger for the teleological idea. But suddenly "the gloomy and scandalous" theories of Thomas Buckle cast a deep shade over the field ; the alarm awakened by the lectures of Vogt and the claims of Darwin and Huxley became intensified ; and the sudden outburst all over Europe of interest in anthropological studies excited new fears. Moreover, the advocates of the doctrine of environment insisted upon taking the apparently harmless general principles of the founders of modern geography, and carrying them out into all details of social life. Long before the proper data existed, Buckle, Crawfurd, Pellarin

[1] This defect in earlier speculations is recognized even by their admirers. It is well put in the introduction to the first American translation of Ritter's Allgemeine Vergleichende Geographie : "It is to be regretted that the turn of the German mind is so little toward illustration of principles ; that it rolls out thought after thought, keeping them in an abstract shape, instead of casting them in that more concrete form which is characteristic of the results of the French, English and American minds." It is certain to-day that the immediate future of this science will depend upon the definiteness with which its conclusions are stated and illustrated.

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and all the rest tried to copy the precision of the older exact sciences. As a result, the young science, trying too soon to walk alone, received a severe fall. And it must be confessed that the exaggerated claims of the economists, and the final gasps of the utilitarian philosophers, also contributed in some measure to bring about the disaster.

Uprooted in England, the new geographical ideas found on the continent a congenial soil, that had long been prepared by Bodin, Montesquieu and Quetelet. Cuvier had not hesitated to trace the close relation borne by philosophy and art to the underlying geological formations.[1] The French inclination to materialism offered a favorable opportunity for the propagation of the environment doctrine. It was kept alive in anthropology by Bertillon *père* and Perier ;[2] in literature by Taine ; and in the study of religions by Renan.[3] Later it will be shown that where the choice lies between heredity and environment, the French almost always prefer the latter as the explanation for any phenomenon. In Germany the earlier work of Cotta and Kohl was continued by Peschel, Kirchhoff and Ad. Bastian, and in later days with especial brilliancy by Professor Fr. Ratzel.

At the present day there is a pronounced movement toward a favorable reception, even among English-speaking peoples, of the science which deals with environment in history. This is apparently due to the decay of antagonism to the doctrine of evolution. The new geography, regarded for some years with favor by scientists in general, is now beginning to exercise a perceptible influence on historical writing. In England this tendency has been stimulated by Wallace, Geikie, Strachey and Keltie. The Royal Geographical Society began its assertion of rights in history as early as 1877 ; and to-day the leading English Universities have courses in this new and

[1] Compare Froude's address on the philosophy of Mr. Buckle in his Short Studies on Great Subjects, 2d ed., 1867, p. 14.

[2] P. Cauwès, Cours d'Économie Politique, I, 217.

[3] *Vide* Bull. Soc. d'An., Paris, 1870 to 1874; especially 2d ser., VII (1872), p. 711. Also Mém. Soc. d'An. for the same period. The École d'Anthropologie de Paris has had courses of lectures upon this subject for some years. *Vide* Histoire des Langues Sémitiques, Paris, 1863; and even earlier in *Asiatic Review*, Feb. and May, 1859.

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reorganized geography.[1] In the United States Professors Shaler and Mason have contributed much to a like result;[2] although the Faculty of Political Science at Columbia College were the first to institute a regular and separate course of lectures upon this subject, distinct from those in descriptive and physical geography which belong to the departments of natural science. The tendency to broaden the scope of economics, and the new interest in sociology, have together made a distinct place for the new geography. Cliffe-Leslie and Roscher pointed the way; and Aug. Meitzen, Ravenstein, Kirchhoff and others brought the use of statistics to its aid, until to-day it stands ready to serve as an introduction as well as a corrective to the scientific study of society. That the historians are recognizing this fact is but a natural sequence of its mode of development.

III.

In every science which deals with man we may discover some trace of a division of opinion, similar to that which is responsible for the great controversy in which the biologists have recently been engaged. Almost everywhere appear two schools, of which the one attaches the greatest importance to race, transmitted characteristics or heredity, while the other regards this factor as subordinate to the influences of environment. In anthropology the two schools appear in various phases of the old debate between the monogenists and the polygenists as to the mutability or permanence of characteristics. To take a modern example, nearly everywhere in Europe we are confronted with the fact of a distinct anthropological differentiation, especially marked in differences of stature, of the

[1] For a fine outline of the present standing of geography in English Universities, *vide Educational Review*, VI, 417. See also the Roy. Geog. Soc., Supp. Papers, I, part 4, London, 1886, and the Proceedings of the same society since that date, especially for 1888; and Proc. Brit. Assoc. Adv. Science, 1887, p. 158. The files of the *Scottish Geographical Magazine* also contain notes from time to time on the progress of the science in the Universities.

[2] The International Geographical Congress at Chicago devoted no less than five papers to the relation of geography to history.

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populations of the mountainous regions from those of the open plains. In the early days, when race was an adequate explanation for everything, the problem was simple. But since the doctrine of evolution has shaken faith in what Cliffe-Leslie has called "the vulgar theory of race," a second competent explanation is to be found in environment. The choice between these two possible causes of the phenomenon, or the proportion in which the two shall be combined, varies in absence of more definite proof with the personal bias of each observer.

In Russia there is from the southwest toward the northeast a general and progressive decrease in the stature of the population, which is explained by Anoutchine mainly as the result of heredity.[1] Race fixes the average stature, while environment merely affects the rate of growth. In other words, the short stature of the pure Slav toward the Asiatic frontier has been raised in the southwest by intermixture with a taller race. Tschouriloff applies the same reasoning to the people of Normandy.[2] On the other hand, Professor Ranke, following von Baer, accounts for similar differences of stature in Bavaria, with no greater contrast of physical surroundings, as the result of conditions of life, particularly of soil and elevation — a view which is maintained also by d'Orbigny.[3] Similarly, Pagliani and Sormani ascribe the relatively short stature of the Italians along the Adriatic coast to intermixture with a stunted race from the Orient. With no more conclusive arguments Cortese explains the relative shortness of the people of Sardinia by reference to the barrenness of the soil and the general poverty[4] — a theory which follows the views of Lombroso with regard to the Italians in general.[5] In France, the school relying upon environment includes the

[1] *L'Anthropologie*, I, p. 62.

[2] *Jour. Soc. de Stat.*, Paris, XVI, p. 5. Precisely the same reasoning is used to explain differences of stature in Thuringia, where any relation to the richness of the soil is denied. *Archiv f. Anth.*, Aug., 1888.

[3] Beiträge zur Anth. u. Urgesch. Bayerns, IV, p. 17. This view recurs constantly in all his works; *vide* Der Mensch, II. For Mecklenburg the contrary explanation is offered by other writers, who appeal to race. *Archiv f. Anth.*, XIX, fasc. 1.

[4] *Rev. d'Anth.*, 2d ser., V, p. 710; and *Annales de Demog.*, V, p. 184, *et seq.*

[5] *Annales de Demog.*, VII, p. 59.

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names of Boudin, Sanson, Villermé and Quatrefages de Breau,[1] with Quetelet in Belgium. Its opponents, relying upon race as the main factor, include Broca[2] and Topinard.[3] At the present time a strong reaction in favor of environment is headed by Dr. Collignon.[4] In explaining the development of the French Swiss, J. Carret[5] appeals to environment, in opposition to Dunant,[6] who relies upon race. Dr. Brinton concludes that "differences of stature are tribal, but not racial."[7]

To a lesser degree we may trace a similar division of opinion in respect of anthropological characteristics other than stature. Ranke would account for craniometric differences between mountain and plain in terms of environment,[8] where Livi in Italy, under similar circumstances, would deny that anything but race intermixture could cause them.[9] Virchow would in all cases, whether as regards cephalic index or pathologic predisposition, rely upon the individual and inherent characteristics rather than upon the external surroundings.[10] The tendency of certain portions of the French population to contract certain disorders may be explained likewise on either of these bases.[11] This diversity of views may be said to reach a

[1] Bull. Soc. d'An., 1893, pp. 139, 209, 254; Topinard, Éléments, p. 387; L'Espèce Humaine, chap. xxii.

[2] *Rev. d'Anth.*, 2d ser., VI, p. 523.

[3] Topinard, Éléments, p. 457.

[4] Mém. Soc. d'An., 3d ser., fasc. iii, 1894, p. 31.

[5] Étude sur les Savoyards. Criticised in Topinard, Éléments, p. 450.

[6] Topinard, Éléments, p. 457. The question is left undecided for the decrease in stature in Tyrol and Voralberg toward the southwest. Mitt. Anth. Ges., Wien, XXI, fasc. 2 and 3. Similarly for Baden in *Archiv f. Anth.*, Braunschweig, IX, p. 257.

[7] Races and Peoples, p. 35.

[8] Mitt. Anth. Ges., Wien, XVII, p. 132; *Beiträge*, IV; Der Mensch, II, p. 207 and 222. Kollmann insists upon the immutability of racial types in all cases. Verh. der Berl. Anthrop. Ges., 1889, p. 332.

[9] *Archivio per l'Antrop.*, XVI, p. 223, *et seq.*

[10] *Vide* remarks by Dr. Luschan in Proc. Assoc. fran. pour l'Avan. des Sciences, 1878, p. 825; and *Correspondenzblatt der Deut. Ges. f. Anth.*, XVIII, p. 18.

[11] Durand de Gros (Bull. Soc. d'An., 1868, p. 138, *et seq.*), Dr. Bordier (La Géographie Médicale, p. 90) and Dr. Chevrin (Comp. rend. de l'Assoc. fran. pour l'Avan. des Sciences, 1878, p. 803) ascribe the bad teeth of certain portions of the French population to soil and water. Lagneau (Bull. Soc. d'An., 1867, p. 389), Dr. Chibret (*L'Anthropologie*, III, p. 353) and Levasseur (Bull. Inst. Int. de Stat., III, fasc. 3, p. 42), in similar cases, appeal to race or heredity.

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climax in the debate as to the origin of the Aryans. Penka and Reinach regard them as a product of outward circumstances, while Schaafhausen explains the physical differentiation of the Aryan from the Mongol type by the influences of civilization, which are a product of inwardness, or of training and heredity.[1] It is probable that the true explanation is a combination of the two views; but the fact that they may, in the end, reduce to the same, does not in the least lessen the sharpness of the controversy.

The predisposition of observers to take these opposing views on the same, or similar evidence, may be shown by a few more illustrations chosen at random. It appears at once in all discussions over the various forms of village community and of architectural types in Europe. Thus, Aug. Meitzen divides Germany into several sections, dominated respectively by what he terms the German, the Celtic, the Roman, and the Slavic type of village. In comparing these, the haphazard grouping of homes in the Germanic village is sharply contrasted with the regular arrangement in the Slavic community, with its houses about a central court or along a straight street; and the regular division of the land into hides (*Hufenverfassung*) owned in severalty, which characterizes the German type, is as sharply differentiated from the holding of lands in common among the Slavs. Distinct from each in many respects, especially in its peculiar architectural customs, is the Celtic type, which rules in South Germany and Bohemia.[2] Approaching the subject in this way, the statistician may help in solving the vexed question of the origin of the rural types of the population, provided these traits are the constant result of race and of heredity. But if these differences are merely the result of local circumstances, all their ethnological significance vanishes, and they become of importance merely for purposes of reform or administration. In a similar investigation in France,

[1] *Vide L'Anthropologie*, III, p. 747; *Ausland*, 1891, p. 7; L'Origine des Aryens, Paris, 1892; especially the discussion in Verh. Anth. Ges., Wien, Nov. 11, 1884.

[2] Beobachtungen über Besiedelung, Hausbau und landwirthschaftliche Kultur, in Kirchhoff's Anleitung zu deutschen Landes- und Volksforschungen, p. 481 *et seq.*; or *Zeits. für Eth., Anth., u. Urgesch.* for 1872, Sitz-Verh. for April 13.

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the predilection for environment has apparently led to this conclusion.[1] So, in Germany, may not the utter lack of variety in the quality of plots for cultivation in the open plains of the Slavic people have led to habits of communal ownership, which are perpetuated in a new land through the selection for habitation of localities where such customs may persist unchanged? May not even the laws of inheritance be affected by the environment in the sandy sterile regions, to the end that primogeniture, and not equal division of the land among heirs, may be the only form of inheritance which will survive? Is not emigration of all the children but one a physical necessity? These are some of the questions which the geologist, Cotta, would answer in the affirmative; and Baring-Gould acquiesces in his opinion.[2] The truth, probably, is a mean between these extremes; but in the absence of some recognized criterion our judgment will depend to a great extent upon personal predilections. Precisely the same conflict of opinion may prevent a final acceptance of some of the theories of Mr. Gomme with regard to the early inhabitants of Great Britain; for we may emphasize the ethnic element, as he is inclined to do, or we may prefer to interpret the form of the village more nearly in terms of environment, as does the geologist Tapley.[3]

A fundamental distinction must be made between social and physical environment. This is especially important because it is closely related to a further distinction between the direct and the indirect effects of the *milieu*. Thus, that in general,

[1] Enquête sur les Conditions de l'Habitation en France. Les Maisons Types. Min. de l'In. Pub., des Beaux Arts et des Cultes, Paris, 1894. Introduction by A. de Foville. *Vide* pp. ix–xviii, especially.

[2] Deutschlands Boden, sein Geologischer Bau und dessen Einwirkung auf das Leben des Menschen, Leipzig, 1858. In part ii, p. 63, *et seq.*, the geological factor in the distribution of the village community in Germany is fully discussed. *Vide* also, Karl Goritz, Ueber die im Königreich Würtemburg üblichen Feldsysteme und Fruchtfolgen, 1848. Baring-Gould, in History of Germany, p. 74, adopts this view.

[3] The Village Community in Great Britain, p. 133, *et seq.*, and *Jour. Anth. Inst.*, III, p. 32, *et seq.*, especially p. 45. All of the references on this subject are accompanied by diagrams, maps or illustrations. The peculiarities of land tenure in the South Midland and other counties may likewise be the product of a double set of causes. Examples might be indefinitely multiplied.

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under a system of peasant proprietorship, the size of agricultural holdings should be larger on an infertile soil than on rich bottom lands, is a direct result of environment; for the size of holdings tends to vary according to their capacity for giving independent support to a household.[1] But the influence of environment is no less important, even though less direct, when the infertile region produces social isolation, and thereby generates a conservative temperament, which resists all attempts at a subdivision of the patrimony.[2] The result — a holding above the average size — is in each case the same, and the ultimate cause is physical environment.

This distinction between social and physical environment may be illustrated by a concrete example in the domain of anthropology. The fact has been noted quite independently in various countries of Europe, that the urban populations differ craniometrically in a marked degree from the people of the surrounding agricultural regions. Calori discovered that the people of Modena have decidedly narrower heads than the suburban population — the cephalic indices being respectively 80.6 and 83.4.[3] Durand de Gros noted the same difference among the French in Aveyron;[4] and Ammon affirms it to be true in the Grand Duchy of Baden.[5] In Bavaria, Ranke observes a difference between city and country in the average size of the heads,[6] which varies, moreover, in opposition to other physical characteristics. This cranial differentiation may be variously explained. In the first place, it may mean that the greater mental strain in city life has

[1] The further discussion of this question is reserved for more detailed treatment.

[2] This is the cause assigned by Cliffe-Leslie for certain peculiarities in land-tenure in parts of France. *Fortnightly Review*, XVI, p. 740.

[3] *Archivio per l'Antrop.*, XVI, p. 274. Livi and Lombroso confirm this fact, which Riccardi (Cefalometria dei Modenesi moderni, Modena, 1883) has also pointed out.

[4] Bull. Soc. d'An., 1868, p. 228.

[5] *L'Anthropologie*, III, p. 317; and *ibid.*, III, p. 722.

[6] *Correspondenzblatt der deut. Ges. für Anth., Eth. u. Urgeschichte*, III, p. 211; and in Stadt- und Land-Bevölkerung verglichen in Beziehung auf die Grösse ihres Gehirnraumes, Stuttgart, 1882. Urban selection in England is discussed in Beddoe, Races of Britain, p. 225.

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directly caused a morphological change toward dolichocephaly.[1] This seems improbable, since Virchow, following all the evidence offered by the study of savage man, affirms that the tendency of civilization is toward the broader-headed type.[2] Or it may be that the cranium has merely participated in the changes which improved economic conditions have produced in all the physical measurements.[3] In all these theories heredity is recognized as effective, wherever the influence of social environment is direct. Another class of explanations rely upon natural selection as the efficient cause. In the same race there may spontaneously arise two types, of which the keen competition of a hot city life selects the better fitted for survival. Or, lastly, there may be two distinct race types, with concomitant physical and mental characteristics, to one of which the city offers superior inducements for immigration.[4] In such a theory all direct effect of civilization upon the cranial conformation disappears:[5] the less progressive type is merely stranded in the rural districts instead of being exterminated in the city itself. This last explanation has been finally accepted in France.[6] That it is in part true for Germany follows from the fact that differences in the color of eyes and hair accompany the differences of cephalic indices,[7]

[1] Or it may, as Dr. Beddoe has pointed out, be due to differences in professional activity. Topinard, Éléments, p. 449.

[2] See *L'Anthropologie*, IV, p. 42, for a review of Bogdanov's conclusions for Russia, agreeing with Virchow. These are criticised in Topinard, Éléments, p. 396, although the general tendency of civilized man toward brachycephaly is acknowledged. *Ibid.*, p. 406. Schaafhausen alone differs. The measurements of Stephanos show that the modern Greeks are broader-headed than those of classic antiquity.

[3] See remarks in Beddoe, Races of Britain, p. 78. Also Ranke, *Beiträge*, IV, p. 17; *Jour. Anth. Inst.*, XI, p. 412; *ibid.*, VI, p. 174; *Archivio per l'Antrop.*, XV, p. 98; Bull. Soc. d'An., 1888, p. 156. The relation of stature to brain capacity is well treated in Ranke, Der Mensch, II, p. 225.

[4] It may be that there is compulsion from behind — that migration from the country is due to the desire to preserve the rural patrimony intact.

[5] Schmidt has shown that the cranial capacity of the Parisian is less than that of the Celt. Ranke, Der Mensch, III, p. 228.

[6] A peculiarly interesting case is offered by the city of Limoges. Mém. Soc. d'An., Paris, 3d ser., I, fasc. 3, p. 19.

[7] Thus the population of Bavarian towns has been shown to contain a high percentage of the brunette type. G. Mayr, Die Bayerische Jugend, Separat-

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until it would indeed appear that "the industrial and commercial struggle is a conflict of races." [1] This is an illustration of what we may term the indirect effect of social environment.

The importance of emphasizing the distinction between the direct and the indirect influence of environment lies in the fact that with advance in culture, it is the latter, subtler aspect of the *milieu* which becomes progressively of greater importance. All thinkers would agree with Mr. Spencer, "that feeble unorganized societies are at the mercy of their surroundings"; or with Mr. Kidd, that "the progress of savage man, such as it is, is born strictly of the conditions in which he lives." Nature sets the life lines for the savage in climate; she determines his movements, stimulates or restrains his advance in culture by providing or withholding the materials necessary for such advance. The science of primitive ethnology is a constant illustration of this fact even in the smallest details.[2] It is only when we come to study peoples in more advanced stages of culture that we find environment marking the line of cleavage between two opposing views. One set of thinkers affirm that at a certain point, natural selection seizes upon mind as the dominant and vital factor in progress. Society passes from the "natural" to the "artificial" stage. Based upon this thesis, the study of environment becomes more and more retrospective — even, so to speak, archaeological. The Alps, which once divided the culture of bronze from the age of iron, became powerless to prevent the passage of Hannibal or Napoleon; and to-day the Triple Alliance sits restfully astride them, while Germany is effectively divided from her neighbors France and Russia, although geographically akin to both.

The opponents of this optimistic view take the ground that

Abdruck des Bayr. stat. Bureaus, 1875. The intimate relation between pigmentation and vitality in the brunette type is discussed in *Rev. d'Anth.*, 3d ser., II, p. 265. If, indeed, "pigment is an index of force," the point is proved. *Cf.* Beddoe, Races in Britain, p. 224.

[1] *L'Anthropologie*, III, p. 122. This subject is discussed on a slender basis of statistical facts in Ammon's Natürliche Auslese bei Menschen.

[2] This is ingeniously worked out by Professor Shaler in Nature and Man in North America.

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civilization is merely a result of adaptation to environment, physical as well as political. Once more to quote Mr. Bryce :

> The very multiplication of the means at his [man's] disposal for profiting by what nature supplies, brings him into ever closer and more complex relations with her. The variety of her resources, differing in different regions, prescribes the kind of industry for which each spot is fitted; and the competition of nations, growing always keener, forces each to maintain itself in the struggle by using to the utmost every facility for the production or for the transportation of products.[1]

It would be easy to multiply examples of the effect of progress in thus compelling specialization — the utilization of each advantage to the last degree, — thus illustrating the force of environment even in the highest civilization. When the vine was introduced into California, the settlers tried to cultivate it in the north and in the south, along the rivers and on the hillsides, near the coast and in the interior. The grape rapidly took root and grew, but its very prosperity in some places threatened its culture in others.[2] Some valleys soon proved too hot to produce wine which would sell in competition with the best ; some soils were too heavy, others too moist. Certain regions produced sherries, while others served better for port wines. To insure success, the conditions had to be most diligently investigated each year ; and it was precisely because all were successful that specialization had to follow.

A similar example is the progressive differentiation in agriculture taking place all over the United States to-day. Once it was possible to point to the corn, cotton, wheat and rye belts, and to show a massing of each crop, regardless of local circumstances. But in virtue of the severe international competition these great aggregations of similar crops are breaking up, and local specialization is the rule.[3] It is precisely

[1] A new chapter on this subject added to the third edition of the American Commonwealth, II, p. 450. The same view is well expressed by General Strachey in Proc. Roy. Geog. Soc., XXI, p. 200, *et seq.*; and by Professor Geikie in *ibid.*, 1879, p. 442, and in *Macmillan's Magazine* for March, 1882.

[2] *Fortnightly Review*, vol. liii, p. 401, *et seq.*

[3] Publications Amer. Stat. Assoc., Dec., 1893, p. 492, *et seq.*

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because nearly all Japan is favored as a silk-producing country that her best silk culture is forced to localize itself.[1] Less than a quarter of a century ago a difference of an inch in the length of the cotton staple was of slight importance; but in 1894, with improved manufactures, Egypt found a ready market in the United States — the home of cotton — for 35,000,000 pounds of her product. The same principle holds true of mechanical industry. When the manufacture of cotton was introduced into the United States it was indiscriminatingly prosecuted wherever there was water-power and labor. At last it was perceived that climatic influences were of great importance in the finer fabrics, and to-day there are indications that the work of this grade is tending to localize itself along the south shore of New England.[2] Here, again, it is not any lack of ability to manufacture in the less favored spots, but the conspicuous advantages in the new localities, that finally produce the new results. Each advance in skill makes the influence of local peculiarities more keenly felt. In short, we have here merely another illustration of the economic advantages of division of labor.

IV.

The scope and purpose of this new phase of geography — the study of physical environment — are certain and well-defined. It is a branch of economics, with a direct bearing upon history and sociology. As Mr. Bryce observes:

> It is the point of contact between the sciences of nature taken all together and the branches of inquiry which deal with man and his institutions. Geography gathers up, so to speak, the results which the geologist, the botanist, the zoölogist[3] and the meteorologist have

[1] *Jour. Roy. Geog. Soc.*, vol. xl, p. 340.

[2] *Vide* article by the author in New York *Evening Post*, Mar. 30, 1895.

[3] For a fine illustration in this field, see Payne's recent History of America, especially his treatment of the zoölogical poverty of the New World in its bearing upon the Aztec civilization. Compare the use made by Canon Taylor of the distribution of the beech tree in Europe in locating the center of dispersion of the Aryans. *Vide* Proc. Brit. Assoc. Adv. Science, 1889, p. 782. The paper is published in full in *Knowledge*, Nov., 1889.

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obtained, and presents them to the student of history, of economics, of politics, — we might even add of law, of philology, and of architecture, — as an important part of the data from which he must start, and of the materials to which he will have to refer at many points in the progress of his researches.

In this sense the science may, perhaps, be termed merely a mode of sociological investigation — the geographical as distinguished from the graphical method; and in this case there is no limit to its application. This is the sense in which Dr. Schiffner has defined it when he says: "Every relation of life which exists upon the earth, and which may be plotted upon a map, belongs in one sense to geography."[1] It may illustrate the spread of a great economic movement.[2] It may be applied, as by Canon Taylor, to the study of linguistic ethnology,[3] and it has a great future in the study of dialects. It may show the distribution of intellectual characteristics.[4] And most suggestive work may be done in showing the geographical distribution of membership in learned societies, colleges and other institutions, or of political affiliations. Its applications in anthropology, and in statistics generally, are too well known to need mention.

With all its possibilities, however, this science must clearly recognize its own limitations, arising from the power of purely historical elements, of personality, of religious enthusiasm, and of patriotism.

The fact probably is that historical phenomena should be ranked in a gradually varying series, at only one extremity of which the reign of law can be absolute and supreme. In proportion as merely physical facts enter into the matter of the case, do historical phenomena tend to place themseves in this law-dominated extreme. The science

[1] *Mitt. Geog. Ges.*, Wien, Neue Folge, VII, 1874, p. 103. A discussion by a lawyer upon the application of geography to the study of law is a fair illustration of this phase of our study.

[2] In Ashley, Economic History, II, opposite p. 304, is a map illustrating the spread of enclosures in England.

[3] In Words and Places are several such maps. In Germany, especially, dialectic maps have long been in use.

[4] "Geographical Distribution of Intellect," in *Jour. Roy. Stat. Soc.*, vol. xxxiv, p. 357, or "Education in Hungary," *Petermann's Geog. Mitt.*, 1884, plate ix.

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of geography, among others, embraces a wide circle of physical facts bearing directly upon history. The migration of peoples in all times, wars in all their kinds and in all their details, the growth and break-up of empires, the production and maintenance of the balance of power among groups of nations, are instances of historical facts largely affected by geography; and to the same class obviously belong, in a yet higher degree, the incidents of maritime discovery. The case of America amply bears out the inference. Were all historical facts of the same kind, the history of the discovery might rank among the leading illustrations of the theory that history may be predicted from its preceding conditions.[1]

Prediction, even in this sphere, is, nevertheless, always dangerous. By all the laws of geographical probability, English influence on France ought to have been greatest in Normandy; while in reality Aquitaine was the center of England's continental activity. That Yorkshire and not Kent should to-day exhibit the strongest infusion of Norman blood in England, is also a geographical anomaly. Again, take the following case in connection with the distribution of population. In Brittany a primitive, non-absorbent rock formation affords numerous natural reservoirs to hold the abundant rains, and the population is scattered broadcast in little hamlets. In the Department of the Marne, on the other hand, where a calcareous soil quickly absorbs the scanty rainfall, the people are bunched about the springs and rivers. Accordingly, the two districts differ widely in their percentages of urban population and in all the social characteristics dependent thereon.[2] It would seem as if the relation of geological and social conditions here discovered might be formulated into a general law, through which the course of settlement in a new country might be predicted. But the United States promptly sets such a law at defiance. For here it is on the primitive rock formations, in the area of plentiful rains, that the New England village is at home. It is in the drier areas of the West, and even on their clayey soils, that population is most widely scattered. Thus, the

[1] Payne, *op. cit.*, p. 18.

[2] For illustrations in detail see Levasseur, Bulletin de l'Inst. Internat. de Statistique, III, liv. 3 (1888), p. 73.

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force of custom and tradition proves itself fully able to withstand for a time the limitations of physical conditions.

Yet, even if it does not reach the grade of a predictive science, the study of the *milieu* cannot be neglected. One of its aims will always be "to discover whether the historical development of a people is in harmony with its environment, and if not, whether it is a plus or minus factor in progress."[1] If it be modest in this wise, geography will soon establish its position as an essential branch of political and social study.

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The Province of economic geography is well discussed in *Zeitschrift der Gesellschaft für Erdkunde zu Berlin*, vol. xvii, p. 354. An interesting article will also be found in *La Science Sociale*, vol. xvii, p. 244. The standard works of Chisholm, Gonner, Deville, Yeats and Zehden are also important for illustration of principles.

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THE GERMAN EMPEROR AND THE FEDERAL COUNCIL.

THE object of this paper is to account historically for the manner in which monarchical authority is organized in the German empire, or in other words, to inquire what organ or organs occupy in the empire a position similar to that which in Prussia belongs to the monarch. For this must have been the way in which the framers of the constitution themselves approached the subject. Certain functions and powers they regarded as monarchical, and the question for them was: To what organ shall these powers be entrusted? Their ideas as to the nature and extent of monarchical authority they of course derived from the political organization of the German states in whose service they had been trained. According to German public law the prince is far from being merely the head of the executive department. He is rather the symbol of the unity of the state, and the center and source of all authority. All the acts of the state are regarded as his acts, although some of them have come to require the consent of a legislative assembly. While in other countries legislative authority has passed from the crown to the parliament, in Germany the monarch is still the legislator, at least to the extent that he refuses his sanction to enactments of which he disapproves. What in England has come to be but a form of speech, is still in Germany a reality.

That the state which they were about to organize must have a monarchical head, and that, too, in the sense here indicated, must have seemed to the founders of German unity a self-evident proposition. But how to organize monarchical authority was a question of extreme difficulty. The simplest solution would no doubt have been to place the King of Prussia at the head of the new federal state. How the other princes would have resented such a proposition may be inferred from the events of 1849. Nothing could be more galling to their pride

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than the idea of subjection to one of their own number. But in a monarchical state one must be either subject or monarch. Hence, the only alternative was to entrust monarchical authority to the associated governments, and so to indemnify the princes for the diminution of their authority at home by giving them a share in the authority of the confederation. This solution had the advantage of historical continuity. The associated governments in the old Frankfort Diet (*Bundestag*) under the presidency of Austria, suggested the associated governments in the new Federal Council (*Bundesrath*) under the presidency of Prussia. The retention of ancient forms facilitated the transition from the old order to the new. To this transformed Diet, made up, as formerly, of the envoys of the German states, the most weighty monarchical powers were attributed. Under the constitution, as finally established, the *Bundesrath* enacts laws with the consent of the *Reichstag*, just as the King of Prussia enacts laws with the consent of the Prussian *Landtag*. It is a sort of supreme administrative board, having authority, as a rule, to issue administrative ordinances, and being empowered to remedy defects or omissions that occur in the course of administration. It has, moreover, the right, with the consent of the Emperor, to dissolve the *Reichstag*, and also the authority to decree federal execution against a recalcitrant state.

Up to this point, but no further, the framers of the constitution went on the way toward making the Federal Council the monarch of the empire. While bestowing upon it the powers just mentioned, they withheld from it those which bring the state into relation with foreign states and with its own subjects, and which involve the action of administrative departments. Had they carried out logically the idea with which they started, the Federal Council would stand at the head of the federal administration, and would carry this on by means of its committees, which do, indeed, bear a certain resemblance to ministerial departments. But such a form of organization was not likely to commend itself to statesmen with whom it was an axiom that administration, to be strong and

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harmonious, must be under a single chief. Centralized administration was to them the necessary principle, and the single chief in the case before them could only be the King of Prussia.

But centralized administration under the King of Prussia does not necessarily mean the King of Prussia standing as a federal organ at the head of a federal administrative system. The governments, in the constitution which they submitted to the *Reichstag*, seem to have intended to entrust to Prussia the management of certain common interests, such as foreign affairs and the postal service, subject, however, to federal legislation and control. Not federal, but Prussian administration was what they had in mind.[1] This relation would have been similar to that contemplated by Bismarck when, after the Danish war, he offered to recognize the Prince of Augustenberg as Duke of Schleswig-Holstein on condition that certain branches of the ducal administration should be handed over to Prussia. In the new federal constitution, as outlined by him, Bismarck's idea seems to have been to bring about unity by means of federal legislation rather than federal administration. It was by means of agreement between the states, to be carried into effect by the states themselves, that some degree of unity had already been brought about. For treaty stipulation, which formed the bond of union in the Customs Union, it was now proposed to substitute federal legislation, and at the same time to apply to other subjects the same method of bringing about unity. Even according to the constitution as finally adopted, many subjects that belong to the legislative competence of the empire are administered by the states. As bearing directly upon the subject under consideration, the fact may be mentioned that most of the German states have made over to the King of Prussia the military administration, which, under the constitution, belongs to them, thereby establishing a relation of the kind contemplated by the governments; for this admin-

[1] Bornak, Die verfassungsrechtliche Stellung des deutschen Kaiserthums, in *Archiv für öffentliches Recht*, VIII, 431. Haenel, Studien zum deutschen Staatsrecht, II, i, 12.

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istration is carried on by him as King of Prussia, and not as Emperor.

The phraseology employed is, to say the least, not inconsistent with the view that the constitution, as submitted by the governments, contemplated not federal but Prussian administration, and consequently the partial incorporation of the other states in Prussia. By the presidency (*Präsidium*), to which the powers in question are entrusted, can only be meant the King of Prussia as president of the Federal Council. So far is the designation from denoting an office to be held by the King of Prussia outside of the Federal Council, that it describes his position as a member of that body. To bestow powers, then, upon the presidency, is to bestow them upon the King of Prussia. It does not, of course, follow that the terms describe the capacity in which the powers are to be held and wielded; but that certainly is a natural interpretation.

That this is the interpretation which the governments placed upon their own draft, is made clear by the discussions in the *Reichstag*. Attention was called to this subject by certain Liberal members of that body, who pointed out that a serious defect of the proposed constitution was its failure to make provision for ministerial responsibility, and who brought forward amendments providing for the responsibility of the chancellor. The rejoinders made by Bismarck to their arguments furnish invaluable aid in divining the purpose of the governments. The responsibility of the administration was, so Bismarck contended, provided for in the draft. But when he proceeded to show wherein this responsibility consisted, it became clear how widely his views differed from those which had found expression in the proposed amendments. The chancellor was to be responsible to the Prussian government, whose envoy he was, and under whose directions he acted.[1] But responsibility under the laws and constitution of Prussia necessarily implies Prussian administration; for the responsibility of federal officials could evidently not be measured by Prussian law. That Bismarck should have met the demand for federal responsibility by point-

[1] Stenographische Berichte, 393 and 397.

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ing to the dependence of the chancellor on the Prussian ministry, cannot seem strange when we remember that in the constitution as adopted the chancellor, in his capacity as Prussian envoy to the Federal Council, is responsible to the Prussian government; and when we consider the difficulty in the way of making the chancellor responsible at the same time, though in different capacities, to two different authorities, Bismarck's reply goes to the heart of the question. How could the chancellor, in deference to the wish of a majority of the *Reichstag*, advocate a measure before that body, and at the same time, acting under instructions from the Prussian government, cast Prussia's vote against the same measure in the Federal Council? This incongruity has not yet been felt, because the responsibility of the chancellor stops far short of what we mean by ministerial responsibility. But the future may yet show the justice of Bismarck's criticism.

A second criticism made by Bismarck upon the proposed amendment leaves small room for doubt in regard to the interpretation placed by the governments upon their draft. He objected to the amendment on the ground that it contemplated the creation of a federal organ outside of the Federal Council.[1] In the latter body, he argued, the several governments would be represented by their envoys, and hence they might, in a sense, regard its authority as their own. Greater concessions than they had already made could not reasonably be expected of them. They would regard it as a diminution of their authority and an encroachment upon their sovereignty if they were required to submit to an authority of which they did not form part and in whose discussions they did not have a voice.

Statements like these are entirely free from ambiguity. The value of the discussion lies in the fact that it brings out clearly the contrast between Prussian administration under Prussian responsibility and federal administration under federal responsibility. In it we see statesmen feeling their way toward

[1] Nothing could be more to the point than Bismarck's utterances. See Sten. Ber., 388.

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the solution of a great political problem. Bismarck had not failed to appreciate the necessity of keeping the Prussian administration of common interests in touch with the Federal Council. His idea seems to have been that the chiefs of these administrative departments should be associated with the chancellor as Prussian envoys to that body. They were not, however, to form a ministry with power to outvote their chief, who was to receive his instructions from the Prussian ministry. To place the administration of common interests under the guidance of the president of the Federal Council was as far as Bismarck could go in the direction of federal responsibility without sacrificing the principle of the responsibility of the chancellor to the Prussian government.

A number of amendments, looking toward the creation of a federal administration, had already been rejected when, pending the discussion of Article 18, which subsequently became Article 17, an amendment was adopted by a large majority which wrought a fundamental change in the draft presented by the governments. "The decrees and ordinances of the presidency," so ran the amendment, "shall be made in the name of the Confederation, and shall require for their validity the signature of the Chancellor of the Confederation, who thereby assumes the responsibility." The change, which, apart from the added clause "who thereby assumes the responsibility," seems mainly one of phraseology, transformed the chancellor into a federal minister at the head of a federal administrative system.

This amendment differed in important respects from the earlier attempts to establish a federal executive. The Radicals disliked the monarchical position of the Federal Council, since such a body could not be made responsible; and they wished to deprive it of its executive functions and to reduce it to the position of an upper legislative chamber. The series of amendments proposed by Ausfeld and his associates[1] represent this point of view. The executive authority was to be lodged in the King of Prussia, as *Bundes-Präsidium*, who was to wield it

[1] Sten. Ber., Actenstück, Nr. 23.

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not through the chancellor, but through responsible ministers. The chancellor's position as Prussian envoy to the Federal Council seemed to the Left inconsistent with the responsibility which they were seeking to establish. Much nearer to the principle on which the constitution was drawn up were amendments introduced by von Bennigsen and Lasker, both moderate Liberals. The former proposed the appointment by the presidency of departmental chiefs who should share the responsibility of the chancellor. All governmental acts were to be done under the responsibility either of the chancellor or of the head of the department within which they fell.[1] Bismarck, however, protested strongly against colleagues who might outvote their chief and so bring the King of Prussia, as head of the federal administration, into conflict with the King of Prussia, as President of the Federal Council. The proposition for the appointment of responsible ministers was again defeated; but later in the same session, in connection with another article, that part of von Bennigsen's amendment which decreed the responsibility of the chancellor was adopted without a division. The idea of a federal executive won the day in the form least inconsistent with the constitution submitted by the governments. Despite the establishment of a federal administration, foreign affairs and the navy were managed for a few years by Prussian bureaus, but under the direction of the chancellor.

The origin of the articles bearing on the position of the chancellor accounts for a curious difficulty of interpretation. Article 15 empowers the chancellor to preside over the Federal Council. But according to Article 17 the chancellor is minister of the Emperor, and as such he cannot be even a member of the body over which he is called to preside. It is only as King of Prussia that the Emperor is a member of the Federal Council, and consequently it is only as a Prussian envoy that the chancellor can enter that body and preside over its deliberations. All difficulty disappears when we remember that Article 15 regards the chancellor as Prussian envoy to the

[1] Sten. Ber., Actenstück, Nr. 48.

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Federal Council, and that it was as an amendment to the present Article 17 that the change in his position was made.

The division of monarchical power between two organs might be expected to leave each of them feeble and to invite discord between them. Instead, however, of being weak and discordant, the government of the empire is strong and harmonious. The contradiction, however, between theory and fact, is only on the surface. In reality, though not in form, the King of Prussia is monarch of the empire. The resolutions of the Federal Council are in reality his decisions, though in form they are the decisions of the associated governments. Of the fifty-eight votes in the Federal Council, Prussia has seventeen, fourteen sufficing to defeat amendments to the constitution. Its envoy presides over the body and directs its deliberations. In case of a tie its votes count as well to break the tie as to form it, while upon a number of weighty subjects no change can be made in existing legislation unless the vote of Prussia is cast in the affirmative. It would be futile to inquire whether these constitutional provisions would suffice to secure the preponderance of Prussia, were they not supplemented by the prestige of a state which both in area and in population forms two-thirds of the empire, and whose warriors and statesmen were the founders of German unity. Moral influence indeed is not legal authority, but on the other hand Prussia's legal weight is but the necessarily inadequate legal formulation of its moral ascendancy. Whether a particular constitution will work well in a given country must depend on the political habits of the people of which it is but a partial reflection. The imperial chancellor, speaking sometimes in the name of the associated governments and sometimes as minister of the Emperor, but guiding either in the one capacity or in the other both legislation and administration, is the embodiment of the unity which underlies the division of monarchical authority.

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FOUR GERMAN JURISTS.

BRUNS, WINDSCHEID, JHERING, GNEIST.[1]

OF the jurists under whose personal influence it was my good fortune to be brought during my studies in Germany, four of the most distinguished have since passed away: Bruns in 1880, Windscheid and Jhering in 1892, and Gneist during the past summer. To each of these men I owe debts of the kind that cannot be repaid; and the impulse to describe,

[1] Karl Georg Bruns was born at Helmstedt, in Brunswick, February 24, 1816; studied law at Göttingen, Heidelberg and Tübingen; practised for a short time in Brunswick; began to teach at Tübingen in 1839; was advanced to the grade of extraordinary professor in 1844; accepted a call to Rostock as ordinary professor in 1849; went to Halle in 1851; to Tübingen again in 1859; to Berlin in 1861, where he remained until his death, December 10, 1880. His published works were: Das Recht des Besitzes im Mittelalter und in der Gegenwart (1848). Fontes iuris Romani antiqui (1860; 5th ed. by Mommsen, 1887). Das Wesen der bona fides bei der Ersitzung (1872). Die Besitzklagen des römischen und heutigen Rechts (1874). Die Unterschriften in römischen Rechtsurkunden (1876). Syrisch-Römisches Rechtsbuch aus dem 5ten Jahrhundert (1880). To Holtzendorff's Rechtsencyclopädie he contributed the important articles on the history of the Roman law and on modern Roman law. Two volumes of essays (Kleinere Schriften) were collected in 1882. A sketch of his life and work was published by Degenkolb in 1881.

Rudolf von Jhering was born at Aurich, in East Frisia, August 22, 1818; studied law at Heidelberg, Munich, Göttingen and Berlin; began to teach at Berlin in 1843; accepted calls, as ordinary professor, to Basel, 1845; Rostock, 1846; Kiel, 1849; Giessen, 1852; Vienna, 1868; Göttingen, 1872. Here he remained, declining calls to larger universities, until his death, September 17, 1892. He was ennobled by the Emperor of Austria. His published works were: Abhandlungen aus dem römischen Recht (1844). Civilrechtsfälle ohne Entscheidungen (1847; 6th ed., 1892). Geist des römischen Rechts auf den verschiedenen Stufen seiner Entwickelung (4 vols., 1852–65; 4th and 5th eds., 1878–91). Das Schuldmoment im römischen Privatrecht (1867). Ueber den Grund des Besitzesschutzes (1868; 2d ed., 1869). Die Jurisprudenz des täglichen Lebens (1870; 9th ed., 1893). Der Kampf ums Recht (1872; 10th ed., 1891). Der Zweck im Recht (2 vols., 1877–83; 3d ed., 1893). Vermischte Schriften juristischen Inhalts (1879). Gesammelte Aufsätze (3 vols., 1881–86). Das Trinkgeld (1882; 3d ed., 1889). *Scherz und Ernst in der Jurisprudenz* (1885; 4th ed., 1892). Der Besitzwille: Zugleich eine Kritik der herrschenden juristischen Methode (1889). From his literary remains: Vorgeschichte der Indo-Europäer (1894). Entwickelungsgeschichte des römischen Rechts: Einleitung (1894). Sketches of his life and character by de Jonge (1888) and Merkel in *Jahrbücher für Dogmatik*, vol. 32 (1893).

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however inadequately, their lives and labors springs partly from the feeling that a tribute to the memory of these great teachers from some one of their American pupils is a duty of scholastic piety. But I am also influenced by the conviction that such a description will be of interest and value to the readers of this review. The life-work of these scholars cannot be set forth on purely biographical lines : to study it involves a study of the movement of German jurisprudence in the nineteenth century. To understand their efforts it is necessary to consider the scientific environment in which they grew up,

Bernhard Josef Hubert Windscheid was born at Düsseldorf, June 26, 1817; studied law at Bonn and Berlin; was employed in the judicial service 1837–40; began to teach at Bonn in 1840; was appointed extraordinary professor in 1847; accepted a call to Basel the same year as ordinary professor; went to Greifswald in 1852; to Munich in 1857; to Heidelberg in 1871; to Leipzig in 1874. Further calls to Strasburg, Vienna and Berlin were declined. From 1874 to 1883 he was a member of the commission appointed by the German Federal Council to draft a civil code for the Empire. He died October 26, 1892. His publications were: Die Lehre des römischen Rechts von der Voraussetzung (1850). Die Actio des römischen Civilrechts (1856). Lehrbuch des Pandektenrechts (3 vols., 1862–67; 6th ed., 1887). Wille und Willenserklärung (1878). Zwei Fragen aus der Lehre der Verpflichtung wegen ungerechtfertigter Bereicherung (1878).

Rudolf von Gneist was born at Berlin, August 13, 1816; studied law at Berlin; entered the Prussian judicial service and was advanced, in 1841, to the position of assistant judge; resigned, on political grounds, in 1850; was appointed, in 1875, a member of the superior administrative court (Oberverwaltungsgericht) of Prussia. — In 1848 and 1849 he was a member of the city council of Berlin; in 1858 he was elected to the Prussian Diet, and was reëlected with unfailing regularity until his withdrawal, a few years ago, from active political life. From 1867 to 1884 he was a member of the Imperial Diet also. In 1883 he was appointed a member of the Prussian Council of State. He was ennobled by the Emperor Frederick III. — His academic career began, at Berlin, in 1839; he was appointed extraordinary professor in 1844; ordinary professor in 1858; and retained this position until his death, July 22, 1895. Among his more important publications were: Die formellen Verträge des neuern römischen Obligationenrechts (1845). Adel und Ritterschaft in England (1853). Das heutige englische Verfassungs- und Verwaltungsrecht (1857–63; 3d ed. of Part I under the title Das englische Verwaltungsrecht der Gegenwart, 2 vols., 1883–84; 3d ed. of Part II under the title Selfgovernment, Kommunalverfassung und Verwaltungsgerichte in England, 1871). Verwaltung, Justiz, Rechtsweg, Staatsverwaltung und Selbstverwaltung nach englischen und deutschen Verhältnissen (1869). Die preussische Kreisordnung (1870). Der Rechtsstaat (1872; 2d ed., 1879); Gesetz und Budget (Berlin, 1879); Englische Verfassungsgeschichte (Berlin, 1882); Das englische Parlament (Berlin, 1886). — Monograph by Walcker, in Hinrichsen's Deutsche Denker (Berlin, 1888); article by Bornhak, *Archiv für öffentliches Recht*, xi, 2 (1895).

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the points of view which they inherited and retained or abandoned, the tendencies which they continued or opposed. To appreciate their influence it is equally necessary to consider the extent to which they furthered the development of their science upon lines already marked out, and the degree in which, by opening new lines of thought and study, they have given to its further progress new impulses and different aims. The problems which have engaged the attention of German jurists during this century are, in large degree, universal problems; and the solutions which they have reached should be of interest to all who care for legal science.

I.

The present period of German jurisprudence begins, as far as any historical period can be said to have a distinct beginning, with Savigny,[1] whose treatise on the *Law of Possession* made him famous a dozen years before Bruns (the eldest of our four) was born, and who closed his career as a teacher just as Bruns, Gneist and Windscheid were beginning theirs. Savigny was the founder of the historical school which is still dominant in modern legal science. Against the conception of "natural" law, universal in its dominion, eternal and unchangeable in its essence, progressive only in the sense that a fuller recognition and more perfect comprehension of its principles may be progressively attained, Savigny set up the conception of law as an historical product of the life of each people or nation, varying according to the national genius, developing in each nation with that nation's entire social development. A large portion of his life was devoted to studying the history of the Roman law, in both the ancient and the mediæval world. The great monument of these investigations is his *History of the Roman Law in the Middle Ages*.

In addition to these historical studies, however, Savigny carried on throughout his life, with rare acuteness of analysis, the labor of resolving the traditional institutions of law into

[1] Born 1779; died 1861.

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their ultimate juristic elements. With this he combined, and with no little success, the effort to reformulate and refine the synthetic conceptions with which legal science operates. Of these labors in systematic jurisprudence the chief results were incorporated in his unfinished *System of Modern Roman Law.*

An important impulse to the historical investigation of the Roman law had already been given, toward the close of the sixteenth century, by the French jurist Cujacius; and a serious attempt to establish a more logical and coherent system of Roman law had been made about the same time by his countryman Donellus. But the historical impulse was checked in the seventeenth and eighteenth centuries by the predominance of natural-law theories; and in the systematic field the work of the great Dutch jurists on whom the mantle of Donellus fell was more and more directed to the new science of international law. In Germany, still absorbed in the practical labor of assimilating the "foreign laws," civil and canon, and fitting them to its own social conditions, neither Cujacius nor Donellus had found any important following. In this country the new impulses given by Savigny were especially needed, and the seeds sown by him have brought forth an abundant harvest, not in Germany only, but throughout the civilized world.

II.

Every effective human impulse, however, is one-sided and provokes a more or less legitimate reaction. Insistence upon one portion of the truth tends to obscure other portions, and these find new exponents and defenders. It was asserted, and not without reason, that Savigny and his immediate followers regarded the evolution of law as an organic social process upon which the individual reason and the individual will have little influence; that they ignored, or at least underrated, the conscious and reflective element in legal development; and they were accused, not without justice, of "quietism" or fatalism. If legal changes, whether made by custom or by legislation, are, as Savigny maintained, merely the expression of slowly

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ripening popular instincts, then such changes are sure to come when these instincts are sufficiently ripened. To hasten the process may be impossible; it will certainly result in mistakes. Such was, in fact, the feeling of Savigny, who was politically an extreme conservative;[1] and the attitude of his immediate followers toward reformatory legislation was far from sympathetic. It was also asserted, and again with reason, that the historical jurists insisted too much upon the national character of law and ignored its human character. After all, Greeks, Romans and Teutons were, in the first place, men with human feelings, ideas and tendencies; in all the systems of law that have existed or now exist, there is much that is common, and the common element is the most significant. These points of antagonism, or rather these supplementary considerations, gave birth to the so-called philosophical school or, as Thibaut, its leading representative, preferred to call it, the "philosophical-historical" school. A characteristic controversy[2] between Thibaut and Savigny, in which the former advocated and the latter opposed the construction of a civil code for all Germany, brought out most clearly their different attitudes towards legislation. The attempt of Gans, another leader of the philosophical school, to trace the law of inheritance in its "world-historic development,"[3] marked with equal clearness the reaction against the purely national point of view.

What is the attitude of German jurists to-day toward these controversies? What, in particular, was the attitude of the jurists who form the subject of our present study? As regards the emphasis laid by the philosophical school upon the human and universal character of law, at least in its fundamental conceptions, Bruns has well said that this led to the development of a purer legal philosophy,

[1] Compare with the conservatism of Savigny, the historical jurist, that of Burke, who regarded politics preëminently from the historical point of view.

[2] Thibaut, Ueber die Nothwendigkeit eines allgemeinen bürgerlichen Rechts für Deutschland. Savigny, Vom Beruf unserer Zeit für Gesetzgebung und Rechtswissenschaft. Both pamphlets appeared in 1814.

[3] Gans, Römisches Erbrecht in weltgeschichtlicher Entwickelung (4 vols., 1824–1835).

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which no longer regards as its task the discovery of an absolute law of nature, but only seeks to recognize, in their universality and necessity, the general conceptions and ideas which attain concrete historical manifestation in the single national systems of law.[1]

He might have added that the philosophical school furnished the theoretical basis for the new comparative science of law, which is still to-day in the earlier stages of a most promising development.

Jhering, who in the first book of his *Spirit of Roman Law* made brilliant use of the comparative method, condemns, in his introduction to that work, the narrow national view taken by the historical school. "Legal science," he says, "is brought down to the plane of territorial jurisprudence. The scientific boundaries coincide in jurisprudence with the political."[2] After emphasizing the interdependence of nations, and pointing out that the legal development of the modern world, or at least of the modern European world, has been substantially a general and not a national movement, he writes:

> And however brief, from the point of view of the ages, is the fragment of history thus far unfolded in this new legal epoch, is it not already clear that it is the thought of universality that gives its character and furnishes the key to the present era? It was with a correct instinct for this trend and drift of modern law that the natural-law school proclaimed its doctrine of the universality of law, elevated above time and place. However little scientific value I may attribute to the works produced in this field, the *direction* which the natural-law theorists pursued was as decidedly in line with the peculiar course of modern history as that of the historical jurists, with their one-sided insistence upon the principle of nationality, was divergent from it. The law of nature, far from standing outside of time and ignoring actual conditions, was in fact but an idealization of existing conditions.[3]

Gneist also declares, in one of his later monographs, that a further development of legal science can be attained only by

[1] Bruns, Das heutige römische Recht, in Holtzendorff's Rechtsencyclopädie, 3d ed. (1877), p. 336.

[2] Jhering, Geist des römischen Rechts (3d ed., 1873), vol. i, p. 15.

[3] *Ibid.*, p. 11.

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taking up again the natural-law doctrines of the past, and giving them further development.[1] The monograph itself is an interesting attempt to sketch in broad lines the development of human law in general, and of modern European law in particular.

These utterances of men who regarded themselves as followers of Savigny sufficiently indicate that, on this point at least, the antithesis of the historical and philosophical schools has disappeared. It is fully recognized that each was right in its main contention.[2]

As regards the attitude of the two schools towards legislative reform, it is sufficient to point out that there is to-day no diversity of opinion among German jurists regarding the desirability of a German code; although, as was pointed out in a previous article of mine in this review,[3] the question to-day is not of the superiority of legislation over usage, of written over unwritten law, but the preference of general federal law to divergent state laws. It may be added that nearly all modern German jurists agree with Savigny that Germany was not ready for codification in 1814.

III.

Of less interest to science at large than the philosophical reaction, but of more practical consequence to Germany, was the "national" opposition. Savigny and his disciples were attacked by the nationalists not as historical jurists — for the armory of historical jurisprudence furnished the assailants with their best weapons — but as "Romanists," as champions of the Roman law and advocates of its continued supremacy in

[1] "Dies Vorwärtsschreiten [der Wissenschaft] wird nur in der Wiederanknüpfung an die naturrechtlichen Lehren der Vergangenheit liegen können, und in der Weiterführung derselben." Zur Lehre vom Volksrecht, Gewohnheitsrecht und Juristenrecht, in Festgabe für Beseler (1885).

[2] So Windscheid, also, in his lectures on Pandects, in 1878: "The correctness of both views is now fully recognized. The antithesis was long ago surmounted."

[3] State Statute and Common Law. POLITICAL SCIENCE QUARTERLY, vol. iii, pp. 155–160 (March, 1888).

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Germany. The attack came from the "Germanists," the defenders of Teutonic ideas and institutions.

In the sixteenth century, at the period of the completed reception of the Justinianean codes, and for some two centuries afterwards, there were no Germanists in Germany — at least among the jurists. The only protests against the overwhelming triumph of the Roman law, and against the partial destruction of German legal institutions, came from laymen — knights and peasants. The jurists had all been trained in the Roman law, first in Italy and later in the German universities. They were carried away by its cosmopolitan breadth of spirit, its logical symmetry, and above all, by the fact that it furnished ready solution for all the new problems with which German folk-law was clumsily wrestling. To them the native Germanic customs were barbarous and irrational, things in which no intelligent man could take an interest. To their attitude was due not the fact of the "reception,"[1] but its completeness. In

[1] The prime cause of the reception, not in Germany alone, but throughout Europe, was the change in economic conditions which followed the revival of commerce in the eleventh and twelfth centuries. Social life became more complex, and the simple customs by which the greater part of Europe was governed became inadequate. One of the first results of the commercial revival was the extension of the mercantile law of the Eastern Mediterranean, which was largely Roman or Græco-Roman in its structure, over the new highways of trade — along the coasts of the West Atlantic and of the North and Baltic Seas, and along the great land routes between these seas and the Mediterranean. (*Cf.* Goldschmidt, System des Handelsrechts, vol. i.) This body of law, however, was applicable only to traders and to distinctly mercantile transactions. For the rest of the people new law was needed, and the law-books of Justinian amply met the need. Where the Roman law was theoretically in force already (*e.g.*, in South France) such rude compilations as the Breviary of Alaric were supplanted by the Corpus Iuris Civilis. In other parts of Europe a true "reception" of the Roman law occurred. In those countries which were not at first touched by the revival of trade, and where simple economic conditions continued to prevail (*e.g.*, in the old cantons of the Swiss Confederacy), the Roman law was not received.

A negative condition of the reception was the inability of the mediæval state to furnish the new law that was needed. Feudalism had so disintegrated political authority that in most parts of Europe there were no organs for the development of national law, whether by legislation or by decisions on appeal. Recourse was therefore had to the older laws of the Roman Empire. Their application was facilitated (not caused) by the general belief that all authority in Europe was ultimately derived from the Roman Empire, and that the Roman Emperors, from Augustus down, were the predecessors of all mediæval rulers. Where this condi-

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theory, the Roman law was received as subsidiary law, to be applied only when the local law furnished no rule. But the jurists recognized German law only in the form of local custom, and insisted that every such custom was a fact to be pleaded and proved by the party who desired its application. When it is remembered that questions of fact, as well as questions of law, were decided by the learned judges, themselves doctors of the civil law, the effect of the procedural rule just stated can easily be imagined. In all parts of Germany the German law was more or less submerged and lost ; more in the South and West, less in the North and North-East.[1]

Not a few Teutonic ideas and institutions, however, were preserved by putting them, so to speak, into togas and teaching them to talk Latin. They found shelter and recognition in the so-called *novus usus pandectarum*, a collective designation of the changes wrought in the Roman civil law by mediæval practice. Some of these disguised natives of Ger-

tion of political disintegration did not exist, neither economic changes nor the fiction of "continuous empire" was strong enough to secure the reception of the Roman law. In England, where the Norman conquest had so solidified the state that the King in Parliament could enact statutes for the realm, and the King's courts could develop the *lex terrae* by their decisions, the new law required was worked out on the basis of existing Anglo-Norman customs. In Spain, where the struggles with the Moors had strengthened royal authority, the reception of the Justinianean law-books was averted by the publication of a Spanish code, largely influenced by Roman ideas, but still an independent and national system of law. In North France, where in the fourteenth century the royal power was so far increased that procedure could be reformed by royal ordinances, and appeals carried to the King's courts, the Roman law was not received as law but was invoked simply as *ratio scripta* when the customs were silent. Here, as in England, the basis of the legal development remained Teutonic.

In Germany and in the Netherlands the "practical," as distinguished from the "scientific" or theoretical reception of Roman law, was generally synchronous with the appearance of the "learned judiciary," *i.e.*, with the substitution of governmental justice administered by professional lawyers for popular justice administered by lay judges. The conviction that Roman law was applicable and authoritative, and the attempt to apply it, of course hastened this change, and the control of the courts by men trained in the civil law was the decisive element in the practical reception.

[1] In the Saxon lands much of the Teutonic custom was preserved through a private compilation which obtained great authority, the Sachsenspiegel. A somewhat similar compilation existed in South Germany, the Schwabenspiegel.

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many crossed the Alps in the very van of the Roman invasion. They had already received Roman citizenship in the Italian courts. Still others came over in sacerdotal vestments. They had been naturalized at an even earlier period in Rome itself, and figured as canons of Holy Church.[1] After the reception of the foreign laws, and largely in consequence of a popular reaction against them, still other fragments of Teutonic law were preserved in official compilations of "statutes" or local rules of law.

That any community of origin existed between those rules of German law which had found shelter in the canon law, or in the new usage of the *Pandects*, and which were, therefore, common law, and those other rules which had survived the reception as local customs or statutes, was not generally understood until the present century. Not until the eighteenth century were even the various local customs recognized as fragments of an earlier whole.[2] It was through the labors of Carl Friedrich Eichhorn,[3] a contemporary and friend of Savigny, that German law was raised to the rank of an independent juristic discipline. For many years now the Germanists have occupied in every university a position fully coördinate with that of the Romanists or Pandectists, and an acquaintance with the history and institutes of German law is as necessary

[1] In Germany, as in Italy, the canon law overrode the civil when the two came in conflict.

[2] In 1643 one Herman Conring, a physician, published a treatise, De Origine Iuris Germanici, in which the results of later historical investigation were largely anticipated. Curiously enough the treatise was called forth by a current theological controversy. The jurists paid no attention to Conring's work. In the eighteenth century the common origin of the various local customs was discovered by members of the legal profession, and lectures on German law began to be delivered in the universities. This innovation was at first regarded with little favor. The Prussian Chancellor Cocceji, having been charged by Frederick William I with the preparation of a general civil code, submitted for the King's approval, in 1738, a preliminary report concerning the scope and plan of the proposed codification. In this report the chancellor went out of his way to express his contempt for that "imaginary German law which sundry tutors (Privat-Doctores) have taken the liberty to invent." His code was to be based on natural reason. When drafted it turned out to be substantially Roman.

[3] Born 1781; died 1854. His great work was his Deutsche Staats- und Rechtsgeschichte (1808; 5th ed., 1842–44).

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for university degrees and bar examinations as is a knowledge of the Roman law.[1]

Between the leaders of the two schools, the Romanistic and the Germanistic, there was no controversy. Savigny himself, in pleading against immediate codification, had insisted that the different elements of which the existing law of Germany was composed were still imperfectly comprehended, and had urged a thorough historical study of Roman and of German law; and Savigny and Eichhorn coöperated in establishing the *Zeitschrift für geschichtliche Rechtswissenschaft*, which from the outset gave impartial shelter to the fruits of investigation in both fields. But the younger Germanists, with the heat that naturally resulted from their struggle for academic equality, opened an attack upon the Roman law. They disputed the rightfulness of its supremacy. They denied that it had any legitimate place in Germany. Savigny's theory of the national character of law gave them an admirable opening. He had declared, in the introductory article of the first number of the *Zeitschrift*, that the law of a nation was the product "of its innermost nature and its history." "If this be true," said the Germanists, "what justification was there for the reception of the Roman law in the fifteenth and sixteenth centuries? What justification is there for its continued supremacy? Ought it not to be thrust out as an illegitimate interloper, and should not the teachers of the historical school be the first to demand its exile?" Savigny, of course, had an answer. In the evolution of every national law there comes a period when it ceases to be the direct and immediate product of the national consciousness. Its further development falls into the hands of a class, the lawyers, and ultimately into the hands of legislators. At the time of the reception the jurists represented the German people, and their reception of Roman law made it German law. To this the Germanists responded that the legal profession might,

[1] At least, in theory. Practically, the time devoted by the German law-students to Roman law is at least thrice that given to the German law, and the relative stress laid upon these subjects in the examinations is roughly in the same proportion.

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indeed, represent a nation, as was the case in the development of the ancient Roman law, but that the German jurists of the fifteenth and sixteenth centuries had divested themselves of all national feeling and were no true representatives of Germany.

The national agitation against the Roman law reached its highest point in the forties.[1] The events of 1848 raised new questions, political rather than juristic in character, and the discussion between the Romanists and the Germanists terminated in apparent agreement. It was generally admitted by the Romanists that the way in which the Roman law had been received was unfortunate; that the overturning of established German customs was indefensible. It was conceded by the Germanists, on the other hand, that the reception of the Roman law was not on the whole a misfortune; that the appropriation of this portion of the vast inheritance of the ancient world had greatly enriched modern European civilization.

Jhering justifies the reception of the Roman law in Germany on the broad ground that no nation can attain the highest civilization save by participation in the civilization of the world.

> The life of nations is no isolated existence side by side, but, like that of individuals in the state, a common life; a system of reciprocal contact and influence, peaceful and hostile; a giving and taking, borrowing and bestowing; in short, a vast business of exchange that embraces every side of human existence. The same law that governs the physical world exists for the spiritual: life is reception from without and internal assimilation: these are the two basic functions on whose maintenance and balance rest the existence and health of every living organism. To prevent reception from without and condemn the organism to development "from within outwards," is to kill it. That sort of development begins with the corpse.[2]

[1] Among the more important contributions to the controversy, on the Germanistic side, were: Kjerulff, Theorie des gemeinen Civilrechts (1839); Bluntschli, Die neuern Rechtschulen der deutschen Juristen (1841); Beseler, Volksrecht und Juristenrecht (1843).

[2] Geist des römischen Rechts, 3d ed., vol. i, pp. 5, 6.

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This vast system of exchange has always included spiritual as well as material goods; and it is from this point of view that he condemns the national standpoint of the historical jurists.

> In the ship that brought wares, gods went back. . . . Language, morals, religion, words, ideas, prejudices, faith, superstitions, industry, art, science, — all follow the rule of international communication and influence. And law? Does that alone stand outside of this universal rule of civilization? That is the outcome of the doctrine we are combating, and which we must combat if we are to find a place for the Roman law, — the doctrine of the historical school that law develops purely from within each nation. We are not to introduce juries, because they did not spring up on our native soil; the constitutional form of government is of foreign growth, and therefore to be condemned. . . . The question of the reception of foreign legal institutions is not a question of nationality, but simply one of expediency, of need. No one will fetch a thing from abroad when he has as good or better at home; but only a fool will reject the bark of the cinchona because it did not grow in his vegetable garden.[1]

A warning example of the results of national isolation is afforded by China, "the Don Quixote of the principle of nationality."

The special justification of the reception of the Roman law in mediæval Europe Jhering finds in the supra-national, universal character which the Roman law had already assumed in the first centuries of the Christian era, and in the similar character which its reception has given to modern European law. In this, as in other matters, Rome furnishes the point of communication between the ancient and the modern world; and here, as always, Rome stands for the principle of universality as against that of nationality. No one who has read the *Spirit of the Roman Law* can forget the striking sentences with which the book opens.

> Thrice has Rome dictated laws to the world, thrice bound the nations together in unity: the first time, while the Roman people still stood in the fullness of its power, in the unity of the state; the

[1] Geist des römischen Rechts, 3d ed., vol. i, pp. 8, 9.

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second time, when that people had already perished, in the unity of the church; the third time, in consequence of the reception of the Roman law in the middle ages, in the unity of law; the first time by external coercion, by force of arms; the second and third times by force of intellect.

Windscheid goes a step further towards the Germanists. He remarks that Jhering's theories of international exchange and of the supra-national element in law, particularly in the Roman law, are "certainly true. But it does not follow that the peculiar genius of each nation should not in last instance determine whether any thing is or is not properly *its* law."[1]

Bruns also emphasizes the universal side of the Roman law, and seeks to define it.

The significance of the Roman law in the history of the world lies chiefly in the fact that in it was developed the abstract conception of the personal right (*des subjektiven Rechts*), and especially the general and equal attribution to individuals of private-law rights. Herein lies what is called the universal character of the Roman law. This does not mean that the Roman law is eternal and absolute law for all nations and times, or that it alone can satisfy the needs of any modern nation, but that in it an essential and general element of law, which must find place in (and, in a sense, form the basis of) every system of law, was worked out in so complete a way as to furnish all nations and times with a model of theoretical and practical value.[2]

He emphasizes, as does Jhering,[3] the new touch of universality which the Roman law gained by its reception in the middle ages.

We must guard ourselves carefully against the notion that what is called modern Roman law is simply that part of the Roman law that is still in force to-day. In modern Roman law are embodied the labor, intellectual development and science of all modern Europe. Modern Roman law is by no means the actual law of Rome. Its substance from beginning to end is permeated with modern ideas.

[1] Windscheid, Pandekten, § 10, note 4.

[2] Bruns, Geschichte des römischen Rechts, in Holtzendorff's Rechtsencyclopädie, 3d ed., p. 81.

[3] Geist des römischen Rechts, vol. i, pp. 10, 11.

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Its entire form is, in even higher degree, an essentially modern creation of the modern mind, in which nearly all nations have participated.[1]

As to the practical inferences, also, to be drawn from these considerations the jurists have reached substantial agreement. That which is really universal in the Roman law is to be retained and developed; that which is based upon conditions peculiar to the ancient world, or upon ideas of justice and expediency that were specifically Roman, is to be rejected. Jhering puts all this in a single phrase which has become famous: "Through the Roman law, but beyond and above it."[2]

With these declarations of the Romanists the Germanists seemed satisfied. Their own utterances were not dissimilar. But the apparent agreement was largely due to the acceptance of a common formula which each party could interpret and apply as it saw fit. How much of the ancient Roman law was really universal and how much temporary and national? How far did the practice of the mediæval Italian and German courts eliminate the antiquated and foreign elements? How far had institutions originally foreign to German instincts become German by adoption? These are questions upon which differences of opinion are perfectly natural; and given an academic system under which a large number of jurists devote their entire time to studying and teaching the Roman law, while another considerable body is wholly immersed in early Teutonic customs and recent German legislation, such differences were certain. But for forty years Germanists and Romanists lived together in peace, or armed neutrality; taught as they thought, and left it to the students to reconcile or choose between their opposite opinions. The publication of the Imperial draft code in 1888 opened the sluice-gates of the academic reservoirs, and in the flood[3] of controversial literature that at once burst forth, the degree of divergence between

[1] Bruns, Das heutige römische Recht, in Holtzendorff, p. 334.

[2] "Durch das römische Recht, aber über dasselbe hinaus." Geist des römischen Rechts, vol. i, p. 14.

[3] A catalogue of this literature, published by Puttkammer and Mühlbrecht in 1892, contains some six hundred titles.

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Romanistic and Germanistic opinions is strikingly disclosed. Not a few of the Romanists are disturbed by the number of uncouth Gothic details that figure in the plans of this new temple of justice, and have hastened to plead for a stricter adherence to classical lines. But their mild protests are drowned in the cries of wrath that issue from the Germanistic camp. "Doctrinaire devotion to scholastic concepts," "contempt for German law and for the popular consciousness of right," — these phrases will serve, without further extracts, to show what passions have been slumbering through the forty years' truce.

But this revival of the old controversy runs beyond the limits of our present theme, for our four jurists took no part in it. Bruns was already dead; Windscheid was restrained from entering into any discussion of the code by the fact that he had been one of the commission of codification; Gneist had long devoted himself entirely to public law and stood aloof from purely private-law controversies. Jhering indeed published a criticism of the code,[1] but his objections had little to do with the national controversy.

IV.

The attempt to codify the private law of the empire has given practical importance to-day to the disputes of the Germanists and the Romanists; the codifiers have been obliged to choose or compromise in numberless cases between opposed views of legal relations; but it may well seem as if the controversy that raged fifty years ago, when no general codification was in sight, was purely academic. This was not the case. The Germanists had a practical grievance against Savigny and his school. The historical researches prosecuted by the latter had clearly shown that the Roman law, as applied by the German courts, was in many respects a different thing from the Roman law of the *Digest*. Starting with the theses that it was Roman law that had been received and that the authentic

[1] Besitzwille, pp. 470–534.

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exposition of the Roman law was to be found in the law-books of Justinian, Savigny and his followers were disposed to treat the modifications introduced by mediæval practice as aberrations, and the influence of the school was thrown in favor of a reversion to the law of the *Digest*. Their arguments actually changed[1] in many respects the practice of the German courts in the common-law territories, *i.e*, in those parts of Germany where the Roman law had not been superseded by modern codes. Savigny and his disciples were therefore accused of having added a fresh injury to the original wrong of the reception by completing the reception.

Here again, since 1848, the Romanists have, to some extent, seen the error of their ways and drawn nearer to the Germanists. Mediæval modifications of the Roman law are no longer dismissed as mistakes due to ignorance. It is recognized that, in many instances, they represent the further development of progressive tendencies revealed in the later Roman jurisprudence and legislation; in other instances, the adaptation of the Roman law to different social and economic conditions; and, in many cases, the acceptance of legitimate or at least defensible Teutonic points of view. The change in the

[1] This partial revolution of judicial practice was made possible by the attitude of continental European theory towards judicial practice. The German jurists, like the French, almost uniformly deny that decisions make law. In view of the historical facts their attitude seems inexplicable. They teach that the Roman law was largely developed by "interpretation"; that old German law was developing along the same lines when its growth was arrested, first by feudal disintegration of judicial authority and then by the reception of the foreign laws; that the practical reception of the Justinianean law was accomplished through its acceptance by the "learned judiciary"; that the Roman law was received as modified by Italian practice, and that it was subjected to further modifications in the German practice, — and yet they do not concede that judicial custom, as such, is law. They go no further than to admit that the practice of the courts may in some mysterious way be transmuted into customary law — or rather, that it might be and perhaps was so transmuted in the middle ages, although the process is no longer possible to-day. The leading Germanist of the present day, Brunner, sees and expresses this point clearly. He writes: "Romanistic theory and practice are still in large degree unable to grasp the indubitable truth that the results of the practical reception, even where they rest upon a misunderstanding of the sources of the Roman law, exclude the application of pure Roman law." — Quellen und Geschichte des römischen Rechts, in Holtzendorff (5th ed., 1890) p. 293.

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Romanistic attitude was, in no slight degree, the work of Bruns. He was one of the first to make a serious study of mediæval theory and practice in a special field.[1] He selected that field in which Savigny had begun his crusade for pure Roman law — possession. Bruns's *Law of Possession in the Middle Ages and the Present Time*, published in 1848, was not merely a finished presentation of the results of careful research and an important contribution to legal history: it was an explanation and, in some degree, a justification of the changes introduced by the mediæval jurists. Bruns himself, in this as in his subseqent writings on possession, remained, in principle, an adherent of the Roman theory as reformulated by Savigny, —the theory that finds the characteristic element of juristic possession in the intention (*animus*) of the possessor, — and he exhibited little sympathy for such changes in the law as seemed to him irreconcilable with this theory. The same may be said of Windscheid.[2] Jhering, however, in his last important work, *Possessory Intention*, not only gives a sweeping endorsement to nearly all the changes introduced by mediæval courts and modern legislators, but carries his assault upon the Romanistic doctrine back of Savigny. He finds the first false step, to which all subsequent aberrations are due, in a bad reason given by Paulus for a correct statement of positive law.[3]

Another valuable bit of research in mediæval legal history is Bruns's study of the presumption of death in case of disappearance, in which he shows how German custom, modified by a verse from the *Psalms* and a dictum from the *Digest* regarding usufruct, produced the rules which have found their way into the principal modern codes.[4] The chief importance of these investigations, and of other similar studies to which they furnished an incentive, lies in the fact that mediæval legal development was no longer treated with contempt, but was taken seriously and examined critically.

[1] Savigny's History of the Roman Law in the Middle Ages is rather a history of the civil law as an entirety, with especial reference to its literary treatment, than a study of the development of single legal institutions.

[2] Pandekten, § 162. [3] Besitzwille, pp. 269–300; 457 *et seq.*

[4] *Jahrbuch des gemeinen Rechts*, vol. i, p. 5 (1857).

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V.

We have thus far confined our attention to the controversies aroused by Savigny's historical theory and by the work of the historical school in the Romanistic field. We have now to note the results of the impulse which he gave in the domain of systematic jurisprudence. Briefly stated, these results were, in the first place, a tendency to excessive generalization, a gradual and unconscious transfer of juristic labor from the field of legal science proper to that of legal philosophy; and then a reaction towards a more practical jurisprudence. Jhering was the leader of this reaction.

The power of generalization which the Germans possess in so high a degree is perhaps the chief factor in their scientific triumphs. Patient research furnishes the material with which science deals, but to make anything of this material it is necessary to discover the principles which underlie and explain — or at least serve to correlate — the facts. But every marked power carries with it the risk of abuse. Not only does the love of generalization easily lead to useless abstraction; it is attended by other and more serious perils. There is the danger of forgetting that the so-called principles of a science are really working hypotheses; that they have been obtained by induction and are to be tested in their application. There is the impulse to wrest evidence to their support and to ignore or evade such facts as prove intractable. There is even, with minds of a certain sort, a tendency to ascribe to accepted principles a character of finality — a truth superior to the apparent truth of mere facts. The more abstract the generalizations, the greater is the harm which such tendencies may entail.

Savigny's own systematic work was not wholly free from these faults, but in his case they were checked by a strong sense of the practical. He was fundamentally more lawyer than philosopher. Among his followers, however, some of whom were obviously intended by nature for philosophers rather than for lawyers, the tendency to excessive abstraction

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and to undue valuation of its results ran riot. Puchta [1] in particular, the leading Romanist of the middle period between Savigny and the contemporaries of Jhering, carried idealistic jurisprudence to a point not before attained and hardly exceeded since. To Jhering, in the earlier period of his revolt, Puchta seemed the incarnation of the tendencies against which he had declared war. At a later period he carried the attack further back and directed it against Savigny, and ultimately, as we have seen, against Paulus. Even then, however, he remained so far true to his first scientific enmity that he could find nothing worse to say of the Roman judge and jurist than to term him "the Puchta of the ancient world." He finds in both

> the same fanaticism of juristic construction, which in its zeal overlooks the yawning gaps between the points of view adopted and the existing law; . . . the same blind adherence to legal logic, which infers outright that whatever does not suit it is impossible and whatever does is necessary; . . . the same intolerance of the views of others, and even of the rules laid down by the legislator, when they do not coincide with the concepts which these two jurists have arranged to their own satisfaction. Intellects, both of them, above the common stature; but violent, scientifically despotic natures, implacable doctrinaires.[2]

In their definitions and statements of principles, as in their whole theoretic construction of the law, Puchta and his followers abandoned to a large extent the method of independent induction from purely juristic data, and took their concepts ready-made from the professional philosophers, especially from Hegel. The philosophy of Hegel has influenced German jurisprudence in various ways. It helped to produce the "philosophical" reaction against the national theory of legal development.[3] It has also helped to give German legal theory an individualistic character. Hegel regarded law as a means for the attainment of true liberty; he described the evolution

[1] Born 1798, died 1846.

[2] Jhering, Besitzwille, pp. 283, 284.

[3] Gans, the champion of the universal or cosmopolitan point of view, was a disciple of Hegel and edited Hegel's Philosophy of History.

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of law as "the development of the idea of freedom"; and he found the essence of individual freedom in the rational freedom of the individual will.

In pronouncing law to be more a system of liberty than a system of restraint, in emphasizing the element of freedom rather than the element of coercion, Hegel was perhaps influenced by the form in which the Roman law has come into the modern world. The only portion of that law which has survived and continued to influence European civilization is the portion which deals with private relations and in particular that which governs property relations. The constitutional, the administrative, and the criminal law of the Roman Empire are as dead as Julius Cæsar; the Roman private law is a living force. In every system of private law there is a wide range of individual autonomy — the state reaches its ends in private law through liberty as distinctly as in criminal law it reaches those ends through restraint — and in no system of private law is the field of individual freedom more generously measured than in the Roman. Add to this the fact that the Roman law — *i.e.*, the Roman private law — has been for centuries the general law of Europe, as compared with which all other law has seemed a mass of local and special rules, and the influence which the private-law point of view has exercised upon European thought in general, and which it may have exercised upon that of Hegel in particular, becomes sufficiently intelligible. These facts again explain the readiness with which the German jurists, especially those of the Romanistic school, have accepted Hegel's one-sided view of law.[1] Lawyers everywhere are apt to regard private law as *the* law, and the Romanist has a better excuse for this tendency than has the English lawyer.

Hegel's position that legal liberty is freedom of will rather than freedom of action or conduct has also some apparent basis in the Roman law. The Roman jurists laid much stress upon

[1] It may, of course, be urged that the prohibitions of the law, the restraints which it imposes, serve to protect individual liberty; but it is equally true that the attribution of rights to the individual operates to the restraint of others. In fact the two modes of regarding law are not antagonistic but complementary.

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animus, voluntas, etc. There is, to be sure, nothing to show that the Roman jurists ever thought of will or intention as obtaining legal significance otherwise than through its revelation in word or deed; there is, in fact, evidence that the intention which a man's language or conduct would naturally suggest to others seemed to them much more important than his real intention; but their curt designation of the expressed will and the indicated intention as will and intention simply, and the importance which they ascribed to the individual will in determining legal relations, lend color to Hegel's assumption. The real explanation, however, of his theory that freedom is freedom of will is perhaps to be sought in the fact that he lived under a system of government which tolerated relatively little freedom of conduct.[1] His view of liberty seems as natural a product of governmental absolutism as Kant's theory of the "categorical imperative" in the field of ethics. But whatever its basis, Hegel's theory has had great success among German lawyers. Their definitions and statements of principles are almost uniformly dyed in the Hegelian color. Not only is a legal act — a contractual promise, for example, or a conveyance — "a declaration of will," but a right is regularly described as "a power of volition," the protection of possession is justified on the ground that the law respects "the realized will," — and so on indefinitely.

Against these tendencies in German jurisprudence — against the over-valuation of abstractions in particular — Jhering waged incessant war for the last thirty years of his life. It would have been difficult to find in all Germany a man better fitted to champion the cause of "practical jurisprudence." He came of that Frisian stock which is still most closely allied, in temper as in blood, to the English; he was by race instinct a realist.

[1] Perhaps, too, — since the position of a nation in the world at large affects the philosophy of its members, — the weakness of Germany in consequence of its disunity had something to do with Hegel's doctrine of liberty. Heine's remark that the Frenchmen ruled the land, the Englishmen the sea, and the Germans the realm of dreams, seems in point. And perhaps Heine's more famous saying that "the Englishman loves liberty like his lawful wife, the Frenchman like his mistress, and the German like his grandmother," may be construed as a satire upon the Hegelian conception of freedom.

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He possessed, also, in high degree, the quality of mind that makes the lawyer — the power of brushing aside the accidents of a problem, and concentrating his attention upon its essence. He was a master of dialectics, quick to discern the weakest point in his adversary's logic. He had both wit and humor, and knew how to use them; he could make an untenable position manifestly absurd. Finally, no German of our day has commanded a more brilliant and persuasive style.[1] Its very defects — a certain diffuseness, a habit of saying the same thing several times before the exact formulation of the thought is attained — have their charm; to read him is to listen to the discursive talk of a full and ready speaker; the personal note, which so strongly influences a listener, vibrates from the printed page. These defects, moreover, — if they be defects, — were far outbalanced by positive excellences. He could make the most abstract theme concrete, the most technical question interesting, by his facility of suggestive illustration; and he had the power of making his ideas current by rounding them into sparkling epigrams. No legal writer of our day, not even Maine, has counted in his public so large a proportion of laymen. Nor was Jhering's public German only; French and Spanish translations of his *Spirit of the Roman Law*, and French versions of several other books and pamphlets gave him a cosmopolitan audience. To English readers, unfortunately, only his *Struggle for Law* is accessible, and the translation of this pamphlet leaves much to be desired.

Into his agitation against abstract jurisprudence,[2] Jhering, by his own account, brought the zeal of a convert. He has more than once described his change of heart; humorously in the anonymous *Confidential Letters*[3] with which he opened

[1] In recommending to us, his students, Jhering's first book on possession, Windscheid, who disagreed with the author's conclusions, warned us that we must read the book critically, "because everything of Jhering's is written with a brilliancy (*Glanz*) and a power of persuasion (*Ueberredungskraft*) that are almost irresistible."

[2] Other terms employed by Jhering are "speculative," "scholastic," "formalistic" jurisprudence, and *die Begriffsjurisprudenz*.

[3] Vertrauliche Briefe über die heutige Jurisprudenz, published 1860–66 in the *Preussische* (later *Deutsche*) *Gerichtszeitung*; reprinted in Scherz und Ernst (1885).

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the conflict; seriously in the last part of his *Jest and Earnest*,[1] and in the preface to his *Possessory Intention*.[2]

There was a time [he writes] when I accepted Puchta as master and model of the correct juristic method, and when I was so captivated by that method that I was capable of going beyond my model. . . . That in the legislative embodiment [of legal theories] any other considerations were to be regarded except the desirability of *a priori* logical construction, I did not then dream; and I still remember how low an opinion I held of my friends among the practising lawyers who could not appreciate the coercive force of my ideas and deductions. . . . But then [about 1860] came the revulsion; not from within, but through external influences; through active intercourse with practitioners — an intercourse which I have always sought, cherished and turned to my advantage; through the occasions for practical activity on my own part which were afforded by appeals to the faculty[3] and requests to furnish opinions — occasions which not infrequently led me to recoil in terror from the application of theories that I had previously defended; and last, but not in least part, through the moot-court,[4] which I have held all my life, and which I regard as one of the most valuable correctives for the teacher himself against unsound theoretic views.[5]

A convert naturally exaggerates the sinfulness of his unregenerate years, and Jhering's self-accusation must be taken with more than a grain of salt. In the context of the passage just cited he instances, besides his earliest work,[6] published in 1844, sundry treatises which he had begun to write but had left unpublished and unfinished, and his opening essay in the first volume of the *Year-Books*,[7] — a periodical which he and the Germanist von Gerber started in 1857. In this essay, as in the

[1] Scherz und Ernst, pp. 338, 339.

[2] Besitzwille, pp. ix, x.

[3] The mediæval practice of referring cases to the law faculties continued through the middle of this century.

[4] "*Pandectenpracticum*" — an exercise in applying Roman law to concrete cases, real or hypothetical. "Moot-court" is in so far an inexact translation as the forms of judicial procedure are not usually observed in these *Practica*.

[5] Scherz und Ernst, *loc. cit.*

[6] Abhandlungen aus dem römischen Recht.

[7] *Jahrbücher für Dogmatik* — still published under the title *Jhering's Jahrbücher*.

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third installment of his *Spirit of the Roman Law*,[1] which was written at nearly the same time, Jhering exalted the function of the "higher" or "productive" jurisprudence; but whether this was the same thing as the abstract jurisprudence which he began to combat three years afterwards, and whether, in his later work, he ever really abandoned the problems which he had set himself in 1857, may well be questioned. As to the unpublished treatises, we must take his word for their unpractical character; but the fact that they were not completed is an argument for Jhering as defendant, not for Jhering as *advocatus diaboli*. For the rest it may be said that his great work on the *Spirit of the Roman Law*, of which the major part was written between 1850 and 1860, does not impress a foreign reader as either abstract or unpractical; and the same may be said of his most important single contribution to "productive" jurisprudence, the theory of the negative interest of contract, which first saw the light in 1860[2] but was undoubtedly worked out at an earlier date. It may be added that his theory of possessory intention, set forth in his last important fulmination against "formalistic" jurisprudence in 1889, had taken preliminary form in his mind, and had been orally communicated to others, as early as 1846.[3]

There can be no question, however, that about 1860 Jhering became strongly convinced, as he afterwards expressed it, that

> a change must take place in our Romanistic theory. . . . It must abandon the delusion that it is a system of legal mathematics, without any higher aim than a correct reckoning with conceptions.[4]

He opened his attack, in the *Confidential Letters*, with a humorous sketch of the beauties of the new jurisprudence. He proceeded to show, in the case of a young theorist just plunged into practice, the unjust and absurd results to which the logical application of accepted general principles would lead. In the

[1] Geist des römischen Rechts, Theil 2, Abth. 2 (3d ed.), pp. 357–389.
[2] Jahrbücher, vol. iv, p. 16 *et seq.*
[3] Besitzwille, preface, p. vi.
[4] Scherz und Ernst, pp. 341, 342.

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later letters he undertook to lay bare some of the causes of the aberrations of legal science. These he found partly in the divorce of practice and theory, partly in the system of legal instruction and examinations, but principally in the custom of requiring that every aspirant to a German professorship shall legitimate himself by producing something new in the way of theory. In Romanistic jurisprudence, he explains, this is practically impossible. The grapes have been trodden for centuries. The only way to get any more wine out of the dry mass is to pour on water before pressing again, and fortify the product with alcohol and sugar.

The proportion in which these ingredients are added differs with the individual taste of the manufacturer. In most cases water preponderates. One jurist has experimented with alcohol alone; but without his observing it, a good deal of water is said to have run in with his *Spirit*.[1]

This allusion to his own work, with other bits of similar self-persiflage, was of course inserted to mislead those who were seeking to identify the author of the letters. The extent to which his purpose necessitated ridicule of particular writers made the preservation of the secret seem especially desirable. He continues:

There have come into my hands, within a few days, various writings of one Dr. Asher, tutor in Heidelberg, — invaluable contributions, which, with sundry others, I shall use in one of my future letters. But I appeal to you: how can this man, in spite of the incredible ingenuity he displays, get away from the fact that Cujacius lived three centuries before him and took the best ideas off in advance? Had he been born then, and Cujacius in our time, he would very likely have been Cujacius, and Cujacius Dr. Asher. It all depends on the first chance at the press. It is all very well to say that if no new and sensible view is possible, it is better to take one already provided; but you do not understand the situation. Better a senseless view for one's self alone than a reasonable opinion in common with others.[2]

[1] Scherz und Ernst, p. 110.

[2] *Ibid.*, p. 111.

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He concludes with a proposal that tutors be released from the necessity of publishing books. He finds in the Roman law a suggestion of a mode in which this reform might be brought about without ostensibly abandoning the rule. He finds there also a precedent for the lenient judgment of tutorial productions.

In Rome, as is well known, the rule existed from the time of Augustus that whoever desired to take by testament must show a certain number of children: *liberi* were the condition of *capacitas*. Persons, however, to whom the emperor was well disposed, escaped this trouble by obtaining the *ius liberorum;* the children were legally presumed or simply waived. Among others, Diana of Ephesus, who as goddess of chastity could not with propriety be held to the observance of the law, was thus invested with capacity. The importance attached in Rome to physical fruitfulness we attach to intellectual productivity: there it was "no inheritance without *liberi*"; here it is "no professorship without *libri*."[1]

He therefore proposes that, as soon as law tutors indicate an intention to print,

a *ius librorum* should be granted them, *i.e.*, they should be made professors just as if they had published the necessary books. Even now, in many universities, the requirement of books is not taken very strictly: there is the same leniency in judging them which the Romans observed in the matter of children, and which is set forth in the *Digest* in a way so humane and so applicable to the question before us, that I cannot refrain from printing the whole passage.

D. 50, 16, 135. "Quaeret aliquis, si portentosum vel monstrosum vel debilem mulier ediderit vel qualem visu vel vagitu novum, non humanae figurae, sed alterius, magis animalis quam hominis, partum, an, quia enixa est, prodesse ei debeat? Et magis est, ut haec quoque parentibus prosint: *nec enim est quod eis imputetur, quae qualiter potuerunt, statutis obtemperaverunt*, neque id quod fataliter accessit, matri damnum iniungere debet."

Freely adapted to the case in point: "When tutors have done the best they can to observe the statutes of the university, why should they be held responsible because, by ill hap, the books they have brought forth are not normal literary productions but monstrosities, or exhibit such debility of mind as not to seem viable? They have

[1] Scherz und Ernst, p. 113.

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at least brought something into the world, and that should be reckoned to their credit." The granting of the *ius librorum* and the professorship should of course be made conditional on an undertaking not to publish the book submitted, or at least not to publish it for a term of years, say the classical nine years — *nonum prematur in annum.* The safest course would be to commit it to the custody of the law faculty. After the lapse of nine years and the attainment of the professorship, the author would hardly insist on publication. He would probably thank God that a wise paternal government had preserved him from an over-hasty literary venture.[1]

This is not only very good fooling : there is good sense back of it.

A more serious attack upon the current tendencies in German jurisprudence was made in the concluding sections of his fourth installment of the *Spirit of the Roman Law.* These contained a strong argument against "the over-valuation of the logical element in law," [2] and an attempt to re-formulate the conception of a right.[3] "If a right is a power of willing," he inquired, "how is it that infants and lunatics have rights?" To this the orthodox responded that "the right does not exist through the fact that volition is exercised, that a will is expressed, but through the fact that an exercise of will is permitted, that a will may be expressed." [4] Jhering promptly seized this as an admission that, under the definition, it is the guardian and not the infant or lunatic who has the right, since it is the former whom the law "permits to will." Jhering's own definition of the right is "a legally protected interest." The interest is the "kernel"; the legal protection, by right of action, is the "shell." We speak of a right as appertaining to the infant or lunatic, and not to the guardian, because the interest is not with the latter, but with the former. So in the case of the fictitious or juristic person : the interests of an incorporated stock-company, for example, are those of the stockholders ; the conception of juristic personality in the

[1] Scherz und Ernst, pp. 113, 114.
[2] Geist des römischen Rechts, Theil 3, Abth. 1, pp. 308, 316.
[3] *Ibid.*, pp. 317–354.
[4] Windscheid, Pandekten, § 37, note 2.

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corporation is simply a device for explaining its power to sue. The construction, according to this formula, of the "foundation," when property is held together for some religious, educational or charitable purpose, gave Jhering more trouble ; but with the courage of his convictions he here vested the interest — and therefore the right — in the public at large.

It is to be regretted that neither Jhering nor his adversaries were acquainted with the English law of trusts. They would there have found a full recognition of the element of interest, for which Jhering was contending, and they would also have found that English law, in distinguishing the legal from the equitable right, has always attributed the latter to the person who has the interest, and the former to the person who has the power. They might well have ended by admitting that these two elements exist in every right, and that the two are separable. Such a termination of the controversy would have left to the adherents of the dominant theory the right to insist that the really juristic element is the power, and to Jhering the credit of having called attention to that element which German theory had previously ignored.

Although no such consensus has been attained, Jhering's arguments have had considerable influence. Some jurists have accepted his definition ; others, like Bruns,[1] have attempted to weave into the sacred Hegelian formula a recognition of the interest which underlies the right.

MUNROE SMITH.

[*To be concluded in the following number.*]

[1] "Die subjektiven Rechte sind die Befugnisse, die den einzelnen Subjekten dem objectiven Rechte nach zustehen. Sie bestehen im Allgemeinen in der vom objectiven Rechte anerkannten und geschützten *Freiheit* der Einzelnen in Verfolgung ihrer Lebens*interessen*." Bruns, in Holtzendorff, 3d ed., p. 352. — "Freedom" is still there ; but "will" has disappeared, and "interest" has won a footing! Further on it appears that freedom has become freedom of action: "Möglichkeit zum *Handeln*."

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REVIEWS.

Feudal England: Historical Studies on the XIth and XIIth Centuries. By J. H. ROUND, M.A. London, Swan Sonnenschein & Co., 1895. — xiv, 587 pp.

Although we are accustomed to see frequent articles on Anglo-Norman history over Mr. Round's name in English quarterlies, monthlies and weeklies, it is only when such articles are massed together in a work of nearly 600 pages that we appreciate his unwearied devotion to the cause of sound historical investigation. In the work before us he has collected some of the most important of his contributions, and to these has added others which have evidently not been printed before. All of the older articles have been retouched and in some parts entirely rewritten. These studies are divided into two groups — one of territorial, the other of historical studies; and among the latter may be found the controversy *in extenso* over the battle of Hastings, with the "last word" of Mr. Round, which was denied him by the editor of the *English Historical Review*.

The subjects presented in *Feudal England* date from 1050 to 1200; and if there be one purpose running through Mr. Round's treatment of them, it is to prove that the feudal elements introduced at the Norman Conquest had a greater influence than English historians are wont to admit. This is a return toward the belief that after all the Conquest was something of a cataclysm, and that there were introduced at that time many feudal practices and customs unknown to the earlier period. The main contention is, of course, against Mr. Freeman and his view that all feudal phenomena are to be explained by reference to Anglo-Saxon institutions. Mr. Round seeks to dispel the democratic and constitutional fog that Mr. Freeman and others have cast about such words as "gemôt" and "witan" and about such characters as Godwine and Harold. We are reminded at once of the similar task undertaken by Fustel de Coulanges in *La Monarchie Franque*, where he sought, by a process of rigid interpretation of Merovingian texts, to free the political institutions of old France from all democratic vagaries, such as elective monarchies, popular assemblies and the like. We wish at times that

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Mr. Round had followed M. Fustel's method of referring to his historical opponents. The latter speaks of them as "savants," "Quelques historiens modernes" or "Les érudits modernes, qui ont l'esprit dominé par l'idée préconçue de grandes libertés populaires": Mr. Round bluntly says, "Mr. Freeman."

The most important of the articles contained in this volume is reprinted from the *English Historical Review* for 1891–92, and its contents are already well known to scholars. This is "The Introduction of Knight Service into England." The thesis for which Mr. Round contends, that knight service was the outcome of William the Conqueror's enfeoffment of his followers with forfeited lands, has been very generally accepted. Professor Maitland, in his *History of English Law* (I, pp. 236–8), speaks of "Mr. Round's convincing paper," and says that "there seems to be no room for doubt that the actual scheme of apportionment which we find existing in the thirteenth and fourteenth centuries is, save in exceptional cases, the work of the Conqueror," and that "apparently he apportioned out these units in fives and tens." This disposes of the connection between the knight's fee and the five hides of the Saxon thegn. The present reprint of Mr. Round's essay contains a few additions worthy of notice. On page 259 an example is taken from Geoffrey de Mandeville to show that knight service was reckoned in multiples of five, if not of ten. On pages 269–70 new evidence has been introduced to show the existence of scutage earlier than 1156. The most important passage is as follows:

> In terris meis exiguntur quinquaginta librae pro placitis, cum earundem terrarum mei homines nec in responsionem nec in facto peccaverint. Item *pro militibus sexaginta librae* quos [quas ?] tanto difficilius cogor reddere, quanto annis praeteritis mea substantia gravius attenuata est.

The writer of this, Herbert, Bishop of Durham, died in 1119; and thus the beginnings of commutation of military service can be carried back forty years. On page 291 is introduced an additional instance of the use of the number 60,000, which, as applied to the number of knights, is but a mediæval exaggeration. On page 297 evidence is taken from the Ramsey cartulary to show that enfeoffment can be traced back to 1166. This point, as Mr. Round recognizes, is not clearly made out, but is interesting as showing the value of the cartularies for institutional history. On pages 300–301 reference is made to the list of the knights of the Archbishop of Canterbury (taken from the Christ Church Domesday, 8th Report on Historical

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MSS.) to show that in all probability knight service can be carried back of 1166 nearly to 1086.

Second in importance to the article on knight service is the series of studies on "Domesday Book." These essays, taken in conjunction with the two papers printed in *Domesday Studies* (1888–1891), rank Mr. Round as among the first, if not the first, of living Domesday scholars. Passing by the discussion of "sokemen," which is the first subject treated, and upon which we want more light, a word may be said regarding Mr. Round's discussion of the "hide;" for here we hit upon results of a somewhat revolutionary character. The Domesday "hide," that most vexing subject of antiquarian research, he declares to have been invariably composed of four Domesday virgates, or one hundred and twenty Domesday acres; but inasmuch as the Domesday "hide" was only a unit of assessment and not of area or value, this means, as Mr. Round abundantly proves, that the Domesday commissioners employed a system of artificial hidation, in which the measure of assessment was the "hide," composed of four (geld) virgates and one hundred and twenty (geld) acres, and that this hide bore no ratio to area or value in either a vill or a manor. This conclusion is reached as the result of elaborate mathematical calculations, in which it appears that the hundred was employed as the unit of assessment, and that the amount was divided by fives and tens among the vills.[1] This would make the hundred a fiscal unit (as it was for Danegeld, in some instances at least), and a certain amount would be assessed upon it as a whole. This amount would be collected through the ordinary machinery of the hundred; and, if I understand Mr. Round aright, he would imply that the Conqueror left to the hundred court the apportionment of the assessment among the vills. If this be so, then the assessment of the vills and manors was subsequent to that of the hundred and was arrived at by a process of division and subdivision; and it would follow that Domesday hidation was not based upon either the actual area or the geldable value of land. Therefore any attempt to discover and establish the relation that assessment bore to area is vain. This conclusion certainly simplifies the Domesday problem. Moreover, if accepted, it would take away from the village community its supposed function as a unit of geld assessment, and would make the village, in this respect at least, subordinate to the hundred.

[1] Since the above was written, Mr. Round has printed an additional bit of evidence from the cartulary of St. John's Abbey, Colchester. *English Hist. Rev.*, Oct. 1895.

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Thus another argument for the existence of the "tûngemôt" would be left without foundation.

Regarding the origin of the five-hide unit Mr. Round speaks with hesitation, but he is convinced that it is old and that it was derived from neither the Roman nor the British system. He is inclined to connect it with the origin of the hundred. "It seems to me to be at least possible, that the district originally representing a hundred . . . was reckoned as so many multiples of five or ten hides, and that this aggregate was subsequently distributed by its community among themselves" (p. 97). This, as bearing on the controverted question of the origin of the hundred, is worthy of careful consideration.

It is impossible to discuss here the many results of Mr. Round's study. Everything that he says carries weight, and through his efforts we are gradually beginning to know more exactly what the Anglo-Norman institutions actually were. In his paper on "The Alleged Debate on Danegeld" he concludes that the payment in dispute was not Danegeld at all, but the *auxilium vicecomitis*, which Dr. Stubbs defines as "a payment made to the sheriff for his services." As this was a local levy, it would be interesting to know more exactly what it was, and how it was apportioned among the tenantry. The last of Mr. Round's points that I shall mention is that the first fine imposed by the king and his justices can be carried back certainly to 1175, and probably originated between 1166 and 1175. The date previously accepted, that of Professor Maitland, is 1179.

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A Student's Manual of English Constitutional History. By DUDLEY JULIUS MEDLEY. Oxford, B. H. Blackwell, 1894. — 583 pp.

Within the past few years the apparatus for teaching English history has been greatly improved. A number of excellent manuals for the use of schools have appeared, each reflecting in its way the results of the highest scholarship. One of the best examples of books of this kind is the volume before us. It covers the entire subject within convenient space and in a style thoroughly commendable. Not often does one find a book packed so full of facts and judicious deductions therefrom. Not a line, scarcely a word, is wasted. Every page is filled with well classified material. If in point of style it has any serious fault, it is excessive condensation; occasionally transitions of thought are not clear and too much is left to be supplied by the reader. For example, on page 310, the author

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states that it is possible to account for the growth of private jurisdictions in England in two ways: the first, *viz.*, the grant of privileges on the creation of estates in bocland, is clearly explained, but one may have to look repeatedly to see what the alternative method was. However, the book is one not simply to be read, but to be studied.

The material for the volume has, of course, been drawn mainly from the standard writers. In all that relates to the middle ages Stubbs has been used with great freedom, but not slavishly. Rarely will one have to go beyond the *Select Charters* to find the original authorities referred to, while the student will welcome here the appearance in compendious form of the views presented at length in the *Constitutional History*. The influence of Dr. Gneist is also clearly visible, and proper recognition is given to the work of later investigators. The dispute between the Romanists and Teutonists as to the origin of the English people has been left undecided. The probable justification of Spelman's distinction between bocland and folkland, as revived by Vinogradoff, is acknowledged. The possible significance of the theory recently advanced by Professor Maitland and Mr. Round, that freeholders as such did not attend the shire court, is recognized. Space is found for the discussions of the economists concerning the manor. This shows that the author regards his subject as progressive, and invites the student to the formation of independent judgments. The development in modern times of the land system, of the cabinet, of Parliament, of the military and fiscal systems, of the church, of guarantees for the liberty of the subject, finds in each case appropriate treatment. Still, as the subject demands, the larger part of the book is occupied with the mediæval constitution.

In harmony with the severely juristic spirit of the book is the author's choice of the topical rather than the chronological order of treatment. Like May, he isolates the parts of the constitution, and traces the development of each throughout its entire course with but slight reference to its relations at any given time to the organism as a whole. From the historical standpoint this is a serious fault. It results in the production of a handy book of reference — a dictionary or cyclopedia, it may be; but one will resort in vain to a book so constructed for a view of growth of the English constitution. The parts are there, but the way in which they are combined, or the effect of changes in the combination, does not appear.

H. L. Osgood.

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Mediæval Europe, 814–1300. By EPHRAIM EMERTON, Ph.D. Boston, Ginn & Co., 1894. — xxv, 607 pp.

"The present volume," writes Professor Emerton, "owes its origin to repeated requests, coming from widely scattered and widely different sources, that I would go on with the history of continental Europe from the point where it was left at the close of a little book published in the year 1888." Like the earlier work, the *Introduction to the Middle Ages*, this is intended for the use of college students in the earlier classes. Thus from the beginning it should be clearly understood that Professor Emerton does not claim that his work is the result of original investigation. It is in fact midway between what the French call *un livre de vulgarisation* and the ordinary college text-book. The period covered by it extends from the death of Charlemagne to approximately the end of the thirteenth century.

The characteristic that gives unity to this period, Professor Emerton finds in the "absorption of the individual into the corporation." He maintains that the individual in this period is merged in the corporation — that he sinks "his own personality in some form of corporate life." That there is some truth in this contention cannot be denied; but the point of view seems to me to be narrow and even unscientific. A period should not be characterized by a lesser movement which is merely the concomitant reaction against a greater. The ancient state allowed no scope to the individual. The conception of a conflict between state and individual was wholly foreign to the ancient mind. The result of the Teutonic tidal wave was the total subversion of this state of affairs. As Laurent says: "Dans les républiques de l'antiquité . . . la véritable liberté n'existait pas, parce que les droits individuels étaient sacrifiés au pouvoir de la societé. . . . Les Germains apportèrent dans le monde le principe de l'individualité méconnu par les anciens." From the "too much government" of ancient times the scene shifts to "the too little government" of feudal times.

The characteristic of a society organized on the feudal system was total decentralization — in fact, anarchy. As civilization advanced and as commerce sprang up, some means had to be devised to check the license of the individual. The church found an instrument in the *pax et treuga Dei*. The burghers organized themselves in the guilds, in the strong municipalities, and in Spain in the *Hermandads*, to withstand the plundering of the baron. Thus the period treated

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by Professor Emerton is characterized by the extreme individualism of feudal society, and by concomitant attempts through union to put a stop to the evils resulting from such a social organization. What the king was powerless to do, the church and the burghers attempted. The rise of the centralized absolute monarchies does away with the necessity of such attempts, and the mediæval corporations, both municipal and commercial, lose their vitality in losing their *raison d'être.*

The book is not what the title and preface indicate — a history of continental Europe during the period marked out. On close examination it is found to be a history of the relations of Italy and Germany, with an appendix consisting of the last six chapters, which treat of "The Crusades," "The Growth of the French Monarchy," "The Intellectual Life," "The Feudal Institutions," "The Organization of the Middle and Lower Classes" and "The Ecclesiastical System." Thus the work is not organic; it has no unity, and from the literary standpoint it is decidedly unsymmetrical. In this respect it furnishes a marked contrast to Professor G. B. Adams's work.

The account of the relations of Italy and Germany during the middle ages, written in a clear but occasionally colloquial style is, so far as I have seen, the best and most useful work in English on the subject. It is not so philosophical as Bryce, but is much more complete, and for the average student far more satisfactory. It embodies the best results of German investigation, and is withal fresh and animated. As a text-book, as a readable book for the layman, and even as a work of reference for the scholar, this part, and it is by far the major part of the book, deserves high praise.

As to the chapters that have been called the appendix, the author's dependence on secondary authorities has been so immediate as to relieve the reviewer from the necessity of further comment. Thus the chapter on "Feudal Institutions" is mainly a condensation from Luchaire's *Manuel des Institutions Françaises;* and there is an obvious indebtedness to the same work in the chapters on the French monarchy and on the organization of the middle and lower classes. While Professor Emerton's plan excludes the detailed citation of authorities in cases like this, the bibliography with which each chapter is introduced affords every convenience to the reader for verifying the statements of the text, and for pursuing further the study of the topics treated.

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A History of Spain. From the Earliest Times to the Death of Ferdinand the Catholic. By ULICK RALPH BURKE, M.A. London and New York, Longmans, Green & Co., 1895. — 2 vols.: xx, 384; viii, 360 pp.

A good general history of Spain in the middle ages has long been needed. The work of Dunham, excellent in its day, has for many years been out of date: and, so far as I know, the results of the epoch-making researches of Dozy have not hitherto been generally accessible to the English reader. This deficiency in our historical literature Mr. Burke has made a serious and scholarly, and on the whole a successful, attempt to supply.

The two chief shortcomings of the work are the inadequate treatment of political institutions and the failure to make fuller use of the work of German scholars on the different periods. Dozy and Gayangos have been the author's guides for the Moorish history, and they are, of course, indispensable; but he could hardly have failed to derive much of value from August Müller's *Der Islam im Morgen- und Abendland.* Mr. Burke's treatment of the Moorish civilization of Spain and the part it played in the education of Europe is too brief. From Müller's *Islam,* Haeser's *Lehrbuch der Geschichte der Medizin* and Gröber's *Grundriss der Romanischen Philologie,* precise illustrations of the service rendered by Arabic science to European culture could have been obtained, and definite facts could thus have been substituted for the vague generalities with which the English reader has usually to be content. To the different phases of the more purely Spanish civilization Mr. Burke has devoted several very interesting dissertations, — architecture, music, literature and amusements all coming in for generous treatment.

The arrangement of the volumes is partly topical and partly chronological, and the narrative becomes detailed only with the period of Ferdinand and Isabella, which occupies about two-sevenths of the whole. The author approached his subject in a spirit that was manifestly honest and judicial, and he apparently spared no pains to get at the facts. The untimely death of Mr. Burke last summer deprives us of the hope that his work would be continued to cover the reigns of Charles V and Philip II. It is, however, much to be hoped that the success of the volumes that have already appeared will stimulate the publishers to issue a cheaper edition.

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La Diplomatie Française et la Ligue des Neutres de 1780 (1776–1783). Par PAUL FAUCHILLE. Paris, G. Pedone-Lauriel, 1893. — 619 pp.

This work possesses a double interest for American readers. In the first place, it relates to one of the important European developments of our Revolutionary struggle; and, in the second place, it throws new light on the diplomatic labors of the minister of foreign affairs to Louis XVI, Count Vergennes, a statesman whose influence was potent in bringing that monarch into the American alliance. The chief value of the work lies in the fact that it embodies the results of original research. It discloses from the inside the history of the armed neutrality, as that history may be traced in the archives of France, Russia and Sweden.

The result of M. Fauchille's investigations is to discredit the current supposition that the idea of the neutral alliance was first suggested by Count Panin. The credit of that suggestion he gives to Vergennes, who, from the moment France determined to take part in the American war, sought to combine the neutral powers for the purpose of resisting the pretensions of England in respect of belligerent rights. In order to trace the development of the neutral league, M. Fauchille carefully follows the thread of the negotiations in the correspondence of Vergennes with the French diplomatic agents at the Hague, Berlin, Madrid, Copenhagen, Stockholm and St. Petersburg. When M. de Corberon, the French *chargé d'affaires* in Russia, in October, 1778, first cautiously suggested to Count Panin the idea of a league of the Northern powers for the purpose of resisting British pretensions, the count, who was disposed to take measures against American privateers, exhibited great reserve. Two months later he made an official report in which he argued that Russia had little interest in the general subject of neutral rights, and submitted the curious suggestion that Russia should extend protection to neutral vessels bound to her ports, but not to those departing from them. The ground for this suggestion was that it was the interest of Russia to protect vessels coming to buy her merchandise, but that it did not concern her what became of it afterwards — whether an Englishman or an American got it. Subsequently the Empress Catherine II proposed to Sweden and Denmark a joint declaration which, far from betraying the liberal ideas of the armed neutrality, seemed capable of meaning that the commerce of the North Sea was under the exclusive control of those three powers.

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Against these adverse inclinations Vergennes, with his habitual patience and tact, pertinaciously labored. He invoked the aid of Prussia; but he found his principal opportunity in the employment of good offices to effect a peace between Russia and Turkey. Under the influence of gratitude, Russia readily adopted the suggestion of Vergennes that the declaration previously made was intended to apply only to territorial waters; and the freedom of the North Sea having thus been recognized, the way was left open for the great diplomatic contest which resulted in the Russian declaration of 1780, and the subsequent league of the neutral powers, commonly known as the armed neutrality.

M. Fauchille traces the development of these events step by step, through the pages of the diplomatic correspondence; and he is entitled to the praise of having made a valuable contribution to the history of an interesting and important transaction.

J. B. MOORE.

The Constitutional Antiquities of Sparta and Athens. By Dr. GUSTAV GILBERT; translated by E. J. BROOKS, M.A., and T. NICKLIN, M.A.; with an introductory note by J. E. SANDYS, Litt.D. New York, Macmillan & Co., 1895. — 463 pp.

The Political Institutions of the Ancient Greeks. By BASIL E. HAMMOND. New York, Macmillan & Co., 1895. — 122 pp.

These two books, and in particular the first, should receive a hearty welcome, not alone from classical scholars, but from all who are interested in studying the development of political institutions.

Among the books that treat of the constitutional antiquities of Greece one of the best is Dr. Gustav Gilbert's *Handbuch der Griechischen Staatsalterthümer*, in two volumes, of which the first is devoted exclusively to the constitutions of Sparta and Athens. In the second edition of the work, published in 1893, this important first volume has been materially improved by careful revision, in which Dr. Gilbert has availed himself of the results of the most recent investigations and especially of the discovery of Aristotle's Ἀθηναίων Πολιτεία. The value of this treatise, which he rightly considers to have been the work either of Aristotle himself or of one of his pupils working under his immediate supervision, is carefully and distinctly set forth in a special introduction, which forms an interesting and important addition to the body of literature upon this subject.

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In his discussion of the constitutions of Sparta and Athens Dr. Gilbert begins in each instance with a short account of the historical development of the constitution. He then proceeds with a detailed description of the different elements of the population, the administrative officers and their powers, military matters, finance, the judicature and so on, and concludes with a sketch of the leagues or confederations over which Athens and Sparta respectively presided. One of the most valuable features of the book consists in the copious and exhaustive references to the ancient authorities, both literary and epigraphical, which with numerous citations we find in the notes. This arrangement renders it easy for the student to test the validity of the author's conclusions by examining for himself the evidence for each individual point. The references to modern authorities, though ample, are somewhat less numerous, since Dr. Gilbert has wisely confined himself to those which are best and most accessible.

This first volume of the *Handbuch*, of which the general scope and the value are too well known to require more extended criticism at present, now makes its appearance for the first time in English dress. The work of the translators has been performed with good judgment and a praiseworthy regard for the differences of idiom between the two languages, so that the result is in the main very satisfactory. It is, therefore, the more to be regretted that the volume is marred by a number of minor errors, which, it would seem, might have been eliminated by the exercise of a little greater care. Mistakes in accentuation, such as ταμιάς for ταμίας on page 202, or ἐάν for ἐᾶν in note 4, page 215, although blemishes, can scarcely be held to impair the usefulness or value of the book; but the same cannot be said of such errors as the following: page 6, note 2, — Boeckh, *Kl. Schr.*, 6, 23 for 6, 63; page 59, note 3, — Hdt. 6, 67 for 6, 57; page 96, note 3, — Dem. 19, 361 for 19, 261; page 103, note 3, — C. I. G., 378–9 for 3078–9. On page 242 the year in which the treasures of the other gods were placed with those of Athena in the Opisthodomos of the Parthenon is given as 453–4 instead of 435–4, an error that occurs also in the German edition.

Another matter, which can hardly be passed by without a word of protest, is the method — or rather utter lack of method — which the translators have shown in their transliteration of the Greek proper names. However much individual opinion may differ as to the proper system to be observed in this matter, it is surely not too much to ask that each person shall adopt a definite method and

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adhere to this with some degree of consistency. This Messrs. Brooks and Nicklin have not done, and with the usual absurd results. Thus on page xxvi Peisistra*tos* and Herodo*tus* stand almost side by side; and on page xlvii we are confronted by Th*ouk*ydides, although elsewhere the form Th*uc*ydides is employed. On page 19, again, we find Terpan*dros*, but on page 22 Lysan*der;* on page 45 Laced*ae*monian, but a few lines further on Laced*ai*mon; and similarly in note 1, page 68, Poly*ai*n. is immediately followed by *Ae*lian.

In this regard a pleasing contrast is offered by Mr. Hammond's little book upon *Greek Political Institutions;* and the author is to be congratulated on the rational course that he has followed. This work, as Mr. Hammond states in his preface, is not to be regarded as a whole in itself, but rather as the first volume of a work upon comparative politics. It contains in amplified form the first portion of a course of lectures which he delivered upon European political institutions in general.

After a brief survey of the Aryan races down to the time of their division into the two groups of Europeans and Asiatics, he proceeds to classify the various European political bodies. His primary classes are (1) the political community, — by which he means a number of persons living under one government and having many interests in common; and (2) the political aggregate or heterogeneous empire, — terms which he applies to those living under one government, but with few or no common interests. The first class he subdivides into tribes, cities, either expansive or inexpansive, and nations, either unitary or federal. Having thus prepared the way, he begins his discussion of Greek political institutions with an account of the tribes and the tribal governments of the heroic age. The Spartans and the Spartan constitution are next considered in a separate chapter; and the various forms of government in the other Greek states from the seventh century to the conquest of Greece by Macedonia are then treated in detail. After a brief discussion of Aristotle's classification of politics, which partakes more or less of the nature of a digression, the author concludes his work with an account of the Achaean league — "the first example in history of a well organized federal state." The general scope of the book, therefore, is such as to render it less valuable to the classical scholar than to the student of politics, for whom it is primarily intended. Mr. Hammond has been successful in compressing a large body of facts into comparatively small compass, and in presenting them in an interesting manner. In some few points he is possibly rather dog-

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matic, as, for example, in his refusal to accept as genuine the Draconian chapter of Aristotle's Ἀθηναίων Πολιτεία; but in the main he appears to have weighed the evidence carefully before forming his conclusions. More extended use than he seems to have made of the work of German scholars would perhaps have been advisable, and more frequent reference to his authorities would have greatly enhanced the value of the book.

CLARENCE H. YOUNG.

COLUMBIA COLLEGE.

The American Commonwealth. By JAMES BRYCE. Third edition, completely revised throughout, with additional chapters. New York and London, Macmillan & Co., 1895. — 2 vols.: xix, 724; vii, 904 pp.

In calling attention to the appearance of a third edition of so well known a work as Mr. Bryce's, it is obviously a reviewer's duty to confine himself to brief comment upon such changes as the author has thought fit to introduce. Mr. Bryce's book needs no further eulogy, and the fact that a third edition has been called for shows that American readers need little further exhortation to study with care one of the most important contributions to political science made by any publicist in recent years. One comment of a general character may, however, be permitted. Although the four new chapters that swell the second volume are excellent in themselves and were necessary to give unity to the whole work, it is to be hoped that the present limits of the two portly volumes will not be extended. Even now it is doubtful whether the admirable thoroughness of the attention given to details does not tend to obscure for the ordinary reader that even more admirable philosophical treatment of his subject which never fails Mr. Bryce. That the author himself is, however, aware of the dangers of undue expansion, seems to be proved by the fact that he has gained space by sundry omissions, chiefly in the notes and appendices.

It is only the second volume that has gained in number of pages over its counterpart of the second edition; but this increase (140) must be discounted, owing to the fact that the new pages are one line short of the old. While the first volumes seem to a casual observer to be exactly alike in chapters and pages, a closer examination shows careful revision throughout the latest edition. Space has been gained by a wise abridgment of the constitution of California given in the appendix; and Mr. Bryce has been able not

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merely to bring his facts up to date, but also to prove how thoroughly he keeps posted on American affairs and on everything written about them. I have noted scarcely an omission of consequence in his bibliography, unless it be that in his chapter on "The Courts and the Constitution" he makes no reference to the late Brinton Coxe's valuable treatise, *Judicial Power and Unconstitutional Legislation*. The minuteness of the revision is well illustrated by the fact that he now omits the statement that a person who fought on the Confederate side would be an inexpedient candidate for the presidency; but the note on "gerrymander" (page 124) is still misleading as to Gerry's attitude toward the scheme to which his name has since been attached. We may now, however, pass to a brief consideration of the four new chapters, with the remark that in addition to making his book more accurate as a work of reference, the learned author has rendered such reference easier by improving his index.

The additional chapters, which all belong to Part V, are entitled respectively "The Tammany Ring in New York City," "The Home of the Nation," "The South Since the War" and "Present and Future of the Negro." The first is a model of condensed exposition; and the vividness with which Tweed and his associates stand out after a few broad strokes of characterization is a striking proof that Mr. Bryce's powers of narration are of distinguished quality from the purely literary point of view. Naturally he was able to insert only a short note on the defeat of Tammany in 1894, but this note closes with a wise and salutary warning. The second chapter is as interesting and philosophical as anything its author has given us, but the topics it opens are too broad to be discussed here. The chapters on the South and the Negro also open a field that is too wide for adequate review in this place; but as a Southern man I cannot refrain from thanking Mr. Bryce for them and commenting on them briefly.

I have nowhere seen the balance held more firmly and fairly than in the pages in which the legislation of the Reconstruction period is discussed; nor have I seen the subsequent political attitude of the South more calmly and equitably examined. While he is not blind to the evil results of slavery, Mr. Bryce sees clearly that there is now no more loyal section than the South — none that has fronted the past and is fronting the future with more faith and courage, in spite of overwhelming difficulties. In view of this sympathetic treatment of Southern conditions, Southern men should and will be glad to listen to what Mr. Bryce has to say about the dangers resulting from

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the predominance for a long period of one political party and from the corrupting methods taken to maintain this predominance. He would, perhaps, have been able to accentuate the moral he teaches as to this latter particular, had he called attention to the fact that one of the most notorious cases of ballot-box stuffing on record occurred about two years ago in a primary election held by the Republican Party in one of the few Southern districts that always give that party a majority of votes.

But it is to Mr. Bryce's views on the so-called negro problem that one naturally turns with most interest. They are on the whole fair and conservative. That they are cautiously expressed was to be expected of our author; that they are not specially illuminating was to be expected from the complex nature of the problem. Mr. Bryce sees that while the political condition of the negroes may change materially for the better in fifty years, their social condition can only be slowly improved by changes of sentiment on the part of the dominant race that cannot be effected by legislation or by interference from without. He seems fully to comprehend the feeling of the whites that their political and social supremacy must be maintained at all costs and the purity of their stock be preserved from contamination. This comprehension of the basal fact in Southern conditions is due to our author's wisdom in visiting and studying the people and the section before writing about them. If his studies have not brought him much more light than has yet come to thoughtful Southerners, they have at least kept him from making rash generalizations and have taught him that the problem must be worked out by the people whom it most concerns. On the whole, then, Mr. Bryce's views on the negro question do not materially differ from those held by Southern students who have learned to emancipate themselves from prejudice and to confront with impartiality the grave problems involved. On one distressing feature of the situation he does not, however, dwell with sufficient emphasis. This is the practical abandonment of large sections of arable land in certain states to a class of small negro proprietors, who from all accounts are retrograding in their methods of cultivation and their standard of comfort. This segregating and decivilizing tendency of part of the race counterbalances much of the improvement made along industrial lines, and introduces into the problem a territorial element that complicates it greatly. More than one Southerner of an historical turn of mind has asked himself whether many features of decadent Roman agriculture may not be repro-

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duced in the South, corporations taking the place of individual proprietors. But where Mr. Bryce is cautious of treading, it will never do for his reviewer to rush in.

W. P. TRENT.

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The American Congress. A History of National Legislation and Political Events, 1774–1895. By JOSEPH WEST MOORE. New York, Harper & Brothers, 1895. — xii, 581 pp.

The chief title of this book leads one to expect a history of the formation and development of Congress, but the sub-title is more nearly descriptive of the contents and scope of the volume. It is a political history of the United States, giving the most important events, occasionally interlarded with excerpts from speeches or with well-worn anecdotes, — some of them, I fear, apocryphal, — and now and again devoting space to the *personnel* of Congress or to brief biographical sketches. There are some indications that good books and a modicum of original matter have been used, and the work is not marred by many serious inaccuracies. The style is clear, simple and straightforward. One seeking for a brief popular account of political deeds and misdeeds, from the Stamp Act Congress to the syndicate bond issue, will find this book on the whole the best that has been written in anything like the same compass.

Yet it is neither a history of Congress nor a history of politics in the United States. Were it the former, we should find an account of the origin, growth and influence of the committee system, the change in the Senate from a *quasi* privy council to a full-fledged upper chamber, the relations between the two houses and how they have come to hold their places and to work together; we should, beyond doubt, find also some study of the development of the speaker's office — one of the most noteworthy facts in our history. But the book is nearly silent on all these subjects. There is no mention of the influence of Henry Clay in exalting the powers of his position, and one might well believe that the functions and authority of Frederick A. Muhlenberg were not far different from those of Thomas B. Reed. In other words, this volume is in no true sense a history of Congress. There are occasionally good descriptions of great days in the arena of debate, as when Hayne contended with Webster, or when Douglas, Seward and Sumner struggled over slavery in the territories.

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At times there are quotations that might better have been omitted. The Congressional Globe is dangerous ground for the unwary toiler who is not seeking out the course of legislation, but is looking for examples of oratory. He is almost sure to bring up a good deal of mud with his pearls. So here we have a page and more devoted to Lincoln's "coat-tail speech," which is said to have gained "considerable reputation." Few of Mr. Moore's readers ever heard of it before, and they were so much the better off. This early effort of Lincoln's shows him fresh from the mire of Illinois politics; it illustrates nothing in the history of Congress, and standing alone means nothing in the history of Lincoln. We are also treated to the details of the quarrel between Blaine and Conkling, — a quarrel, indeed, which had no slight effect upon our history. But when we read so much congressional billingsgate in the morning papers, it hardly seems necessary to reproduce in a book the masterpiece of scurrility which this incident called forth.

Were this book a history of American politics we should find in its five hundred pages some adequate, suggestive account of the origin of political parties, and their transmutations; but such questions have not awakened the writer's interest. His account of the formation of the Federalist and the old Republican parties leads one to think that the author is not quite sure of his ground. He makes no pretense anywhere of looking below the surface, but here it is doubtful if he examined even the surface with care. To the reorganization of parties in the administration of the younger Adams is devoted but one short paragraph. The Know-Nothings get off with eleven lines. The beginnings of the Republican Party are not more extensively treated. It is not my intention to chide Mr. Moore for laches in this particular, but simply to state what his book does not contain which one might expect to find there.

I have said that the book is not marred by serious inaccuracies. Perhaps all blunders are serious; but the general reader, for whom the book is professedly written, will not be misled as to the main course of events, and will not find any very important fact misstated. This is faint praise indeed; but one cannot conscientiously say more. A few examples will illustrate my meaning. On page 9 we are told that in 1763 "England received from France and Spain all their possessions in America except the western part of the province of Louisiana." Doubtless no intelligent reader will be misled into believing that. On page 84 the year of Hamilton's birth appears as 1751 — probably careless proof-reading. We are told that "General

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Hull ingloriously surrendered the important post of Detroit, on the northern frontier, under circumstances which showed he was a traitor to his country." Nobody believes that now. Even the prejudiced court-martial, presided over by a general whose own failings had contributed to Hull's difficulties, did not dare to declare that the poor old man was worse than neglectful and cowardly. Again, we are told in all seriousness, as a very comfortable conclusion of the war of 1812, that England "had also found that the American army and navy were more than a match for her forces." Possibly such redundant patriotism has its place, but not in a real history. A curious and interesting form of error appears in the account of the Philadelphia convention. According to Mr. Moore, some conservative delegate suggested that it would be well to adopt "a plan composed of palliatives and half-measures. When Washington heard this injudicious suggestion he left the president's chair and spoke earnestly against it. During this speech he uttered these memorable words." Here follow the words which Gouverneur Morris put into Washington's mouth in a eulogy pronounced upon him in later years. Now as everybody knows, Madison declares in his notes that the president spoke but once, and then concerning the ratio of representation. If Washington ever used the words attributed to him, it was before the meeting of the convention; and, in fact, Morris's account is quite consistent with such a theory. This error is interesting because it illustrates the longevity and vitality of an attractive falsehood. Bancroft gave the story currency in his *History of the Constitution*, but asserted that the words were used just before there were enough delegates present to form a quorum. Mr. Fiske repeated the incident in his *Critical Period*, adding many imposing extras. Now Mr. Moore has given cause and occasion. We need not be surprised if the anecdote leads a thrifty and prosperous life for many decades to come.

It is not the purpose of this review to denounce Mr. Moore's book. Its title is misleading; it is not strictly accurate on minor matters; it does not always distinguish the important from the trivial; there is no pretense of profundity, no effort to give political events in perspective, no appreciation of causes. But with all its evident failings, as a mere narrative history the book is not unsuccessful. It is readable and interesting, and its blunders are harmless. It may find its way into the hands of those who would not read a more scholarly or profound work.

A. C. MCLAUGHLIN.

UNIVERSITY OF MICHIGAN.

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Le Gouvernement Local de l'Angleterre. Par MAURICE VAUTHIER. Paris, Arthur Rousseau, 1895. — xii, 446 pp.

L'Administration Locale de l'Angleterre. Par PIERRE ARMINJON, Docteur en Droit. Paris, Chevalier-Marescq et Cie., 1895. — 345 pp.

It is now two centuries since England solved for Europe one of the most important problems of Western civilization, *viz.*, how to secure at the same time civil liberty and orderly government. Naturally she did not solve this problem without a struggle. Indeed, the solution caused so much disturbance that her continental neighbors, who had very generally sacrificed civil liberty in order to avoid anarchy, were accustomed to regard her in her period of turmoil in much the same light as that in which France, since 1789, has been regarded by the rest of the Western world until within the last few years. When the battle was won, however, the solution of the problem which England had reached was very generally — indeed, it might almost be said universally — adopted. But with one exception the publicists of continental Europe sought and found the reasons of England's success in the mere relations of Parliament and crown, ignoring the broad basis of local self-government which had been laid in the days of the Norman and Plantagenet kings. The one exception was the late Professor Gneist, of Berlin. He it was who opened the eyes of European publicists to the importance of the local institutions in the English constitutional system. Now that England is attempting for social reform what she at one time accomplished for political reform, the eyes of continental Europe are again being directed towards her. But unlike the political philosophers of the seventeenth century, the observers of the present time are directing their attention to English local institutions. The reason is apparent. Almost all the successful social reforms of the present day in England are due to the activity of local rather than central authorities. The central government has, it is true, stepped in to forbid many actions on the part of individuals which it regards as detrimental to the public welfare; but almost all positive action on the part of the government in the direction of ameliorating the lot of the less fortunate classes of the population is being undertaken by the various local public corporations.

The appreciation of this fact is what gives peculiar value to the work of M. Vauthier. He has grasped the social importance of the late changes in English local government in a way which, while per-

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haps not impossible for an Englishman, is hardly to be looked for in one who has lived so near the movement which has been going on for the past quarter of a century. Certainly M. Vauthier's attitude towards local-government reform in England is not that of those persons — generally barristers — who have hurriedly thrown together books on the county, parish and district councils formed by the acts of 1888 and 1894 — the only literature in English on the subject. M. Vauthier is, however, himself a lawyer and, while writing of the recent interesting reforms with the breadth of view of the political scientist, has all the lawyer's desire for accuracy in his statements regarding English law. His book is peculiar in that, though written by a foreigner trained in a system of public law quite alien to that of England, it contains so few mistakes. The only one to which attention need be directed is on page 339: and this is not of great importance; indeed, it is a fault not so much of commission as of omission. In commenting on the private-improvement rates he makes no reference to the American system of assessments for local improvement, though the adoption of this system, under the name of the betterment tax, has become a very important question, particularly in the great metropolitan district of London.

Finally it is to be noticed that M. Vauthier is one of those who believe that the present can be understood only in the light of the past. A large part of his book is devoted to the history of English local institutions. While he does not seem to have added very much to the sum of our knowledge in this field; while in some instances, particularly in what he says about the origin and development of the jury, he might have made further use of the results of German and even of American investigation: still it is seldom that we find the history of English local government told so concisely, and at the same time so accurately and in so entertaining a manner.

While the striking feature of M. Vauthier's work is the author's appreciation of social conditions and tendencies in England, Dr. Arminjon's book is more noticeable from the legal point of view, and particularly from the point of view of comparative law. His references in the footnotes to the statutes, so many of which have been recently passed making changes in the local-government system, are very full, and almost all his statements seem to be correct. One mistake, which is probably typographical, is found, however, on page 84, where the date of the union of the poor-law board and the public-health board is given as 1831 instead of 1871. Again, on page 144, the "assises" are spoken of instead of the quarter sessions.

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The great merit of this book is to be found in the author's grasp of the fundamental principle of English law relative to local powers, *viz.*, that they are enumerated in the law, with the necessary result of a large amount of special legislation. The appreciation of this principle is the more remarkable from the fact that, as a Frenchman, Dr. Arminjon can hardly be expected to be familiar with English institutions; and the system with which, as a Frenchman, he is familiar is based on general grants of local power subject to specific limitations.

Another great merit in Dr. Arminjon's book is to be found in the full and accurate description of the most salient feature of the modern development of English local government, *viz.*, the central administrative control exercised over the local bodies. This is a feature which many writers on English local government pass by altogether, or treat quite inadequately. Nowhere else has this matter been so fully or so satisfactorily set forth. His treatment of this control not only considers its legal aspects, but also includes a description of its practical workings, which, owing to the assistance given to the author by a number of English officials, is of the greatest value to all who are interested in local reform.

It is seldom that two books on the same subject, appearing almost simultaneously, duplicate each other so little as the two before us. No one who is interested in the subject should fail to read them both.

FRANK J. GOODNOW.

Études sur la Compétence Civile à l'égard des États Étrangers et de leurs Agents Politiques, Diplomatiques ou Consulaires. Par P. DE PAEPE. Brussels, Émile Bruylant, 1894. — 302 pp.

M. de Paepe is an advocate of the supremacy of the civil law over all persons and all things within the territorial jurisdiction. He maintains that foreign states and their agents should be subject to the jurisdiction of the civil tribunals. From this claim he excludes matters of a political nature, and he does not advocate the subjection of diplomatic agents to the criminal law. But he contends that foreign states and their representatives should not be exempt from judicial process in matters of civil contract or of civil obligation. In the course of his argument, he presents a large number of interesting precedents; but many of these are, as he perceives, adverse to his thesis, for which he finds more support in the ancient than in the modern jurisprudence. He thinks, however, that some of the

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modern cases have proceeded on erroneous grounds, and he condemns, to a great extent justly, the fiction of extraterritoriality as a basis of decision.

But while admitting that errors have been committed, it may be suggested that M. de Paepe has overestimated the injury to social order that results from the exemption of foreign states and their representatives from the civil jurisdiction. Take, for example, the case of diplomatic representatives. If the number of such representatives in any one country were large and their contracts were numerous and extensive, the question of civil jurisdiction might assume a practical importance. In reality, however, its practical importance is slight. On the other hand, so great has been the importance attached to the freedom and independence of diplomatic agents, that governments like those of Great Britain and the United States, which most strenuously assert the supremacy of the territorial jurisdiction, have been among the most liberal in securing immunities to such agents.

M. de Paepe truly says that social order cannot exist without the civil law. There is, however, a *jus publicum*, which is within its domain as essential to social order as the *jus civile;* and in matters that affect the relations of independent states the *jus publicum* has rules the precise object of which is to prevent the conflicts which would arise from each state's endeavoring to settle matters in its own way. Let us suppose that a citizen of a certain country has a claim against a foreign government. Would it be promotive of social interests for the courts of such country, finding property of the foreign government within the jurisdiction, to seize it upon the petition of the claimant and proceed to adjudicate his claim? M. de Paepe seems to think that the courts should do so, even where the claim is based upon a subscription to a public loan. Yet, claims of this character are matters so closely pertaining to the independence of states, that governments have often refused even to make them the subject of diplomatic representations. Indeed, should not the particular jurisdictional incompetency which M. de Paepe deplores, though it has been carried in some cases further than is desirable or necessary, be considered a result of the recognition in modern times of the independence and equality of states?

J. B. MOORE.

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Lectures on the Principles of Political Obligation. By THOMAS HILL GREEN. Reprinted from Green's Philosophical Works. London, Longmans, Green & Co., 1895. — xxiv, 252 pp.

This reprint, furnishing a handy college text-book, is especially timely at this period when the *laissez-faire* theory of the state seems to be in process of abandonment in favor of a re-affirmation of the state's supremacy over individual action, more particularly under the forms of labor and temperance legislation. The editor, Bernard Bosanquet, has done well to prefix to the "Lectures" constituting the body of the book some twenty-five pages presenting the author's discussion of the "Different Senses of 'Freedom' as Applied to Will and to the Moral Progress of Man." The theories discussed with greatest prominence are those of the Stoics, St. Paul, Kant and Hegel. Professor Green's sympathies are in the main with Hegel, though modified by a conservative appreciation of Kant. The substantial result of the discussion is, that in its ordinary form the question between freedom and necessity cannot be answered because it is ineptly asked. The will is the man himself, the ethical person. So is reason the man himself, the rational person. In God these two are, of course, identical. In men, whether considered individually or historically, they only tend to become so. This is Professor Green's bond of union between the "pure" and the "empirical" ego. They are one and the same ego, viewed first as to its potentiality, second as to its momentary actuality. In the process of moralization which brings the latter nearer and nearer to the former, the state, as conceived by Hegel or the Greek philosophers, has an eminent part to perform. Professor Green is not oblivious to the efficacy of other agencies, for instance, the family, nor does he fail to observe that the state as it is — the "empirical" state — may be very far from fulfilling this function ideally. But he is clearly and consistently of opinion that the state as it should be — the "pure" state — will not only do so, but will take up into itself and strengthen with its own strength all the other relations and agencies. Underneath the strong influence of the German *Rechtsphilosophie* are discernible the perennially valuable Aristotelian conceptions, of which Oxford has never lost the tradition. The thorough blending of these two cognate systems of thought in a singularly sane and well-balanced mind gives to Professor Green's political philosophy great stability and wide and safe application.

It is almost unfair to attempt to epitomize the leading thought in a work so compactly reasoned. Were I to attempt it, I

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should say that the cardinal principle upon which Professor Green grounds political obligation is twofold. In the first place, to state it negatively, if I question the rights of the state over me, I am denying the basis of my own rights. Outside of the state, taking that term in its widest possible significance, there are no rights. There may be might; there cannot conceivably be right. In the second place, to state the same point positively, my duties are corresponsive to my rights; and since the state partly furnishes and altogether safeguards the occasions for the discharge of these duties, or in other words, guarantees my existence as an ethical person, the highest aim of the "pure" state — if the reader will once more excuse the phrase — is coincident with the highest aim of the "pure" ego. It might be said that this twofold statement amounts to the same thing in the end. Professor Green would not hesitate, were he alive, to admit this. He would, in fact, strongly urge it. It is one of the many proofs of the remarkable soundness of his book that it treats the rights of the individual and the rights of the state, the duties of the individual and the duties of the state, only as different aspects of the same central ethical fact. The state can have no rights which interfere with the tendency toward a higher ethical development in the individual. The individual, as such, can have no rights against the state, as such, though it may be his duty, even if he be one of a numerically insignificant minority, to resist unrighteousness in the state. But note, that in so resisting, he is not affirming his individual likes or dislikes, but is urging an appeal for the benefit of the state, an appeal from what I have ventured to call the "empirical" state to the "pure" state. Obversely, note, that in thus preferring the eternal righteousness of the state to one of its passing phases of unrighteousness, he is at the same time living for his own progress towards the "pure" or "rational" ego.

In order to bring out this view and its derivative conceptions with greater clearness, Professor Green goes into detailed criticism of the views of Spinoza, Hobbes, Locke and Rousseau. The treatment is distinguished by a noble breadth and catholicity, and by concise amplitude of statement which neither verbosely dwells on *minutiae* nor fails fully to bring out any point that is really of moment. He rightly points out the greater barrenness of the Hobbesian as compared with the Spinozistic view, reëxplodes the latter's identification of natural right with might, shows with clearness the progress of Locke beyond both Hobbes and Spinoza, and is especially true in his touch when dealing with that puzzling phase of Rousseau's

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contract theory which discriminates between the "will of all" and the "general will."

By clarifying the last-named concept and placing it in juxtaposition with Austin's theory of sovereignty, he produces a particularly felicitous chapter on "Sovereignty and the General Will." While I should not venture to affirm that this chapter has absolutely settled the relations of these two difficult terms, all but an uncompromising analytical jurist will admit that it is an advance upon Austin.

His conception of what constitutes the principles of political obligation being thus emphasized by coincidences with, and rendered distinct by criticism of, antecedent theories, Professor Green deals to some extent with the following separate topics: "The Right to Life and Liberty," for which he proposes to substitute the right to free life; "The Right of the State over the Individual in War," which leads to a very well reasoned denial that the conception of war is at all compatible with the conception of what we have called the "pure" state; "The Right of the State to Punish," which bases punishment by a rather indirect line of argumentation upon the function of the state in maintaining rights as conditions of moral well-being; "The Right of the State to promote Morality," unfortunately a very short chapter; "The Right of the State in Regard to Property," which comes to a singularly lame conclusion in opposing to the single-tax proposition only the difficulty of distinguishing between "earned" and "unearned increment,"—a position which will probably be equally unsatisfactory to both parties in the controversy; "The Right of the State in regard to the Family," where at last, in denying that divorce should be granted for incompatibility, a postulate is made to do duty for an argument, since the affirmation that it is the object of the state to make marriage a "*consortium omnis vitae*" is nowhere argued out; and a brief intimation of a scheme of lectures on "Rights and Virtues." It is impossible not to regret that this scheme failed of being filled in.

After all, it may occur to the reader to ask: *Cui bono?* The treatment is neither positive nor historical; it is metaphysical. Of what particular use is metaphysics in the matter? The answer is twofold. We are living in a period of wide-spread individualistic, not to say anarchistic, belief. This necessitates, whether we will or not, a profound reëxamination of the grounds of political obedience. If political thinkers shirk this task, it will none the less continue to be attempted by the unthinking and the half-thinking. The seasonableness of Professor Green's *Principles of Political*

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Obligation lies not least in the success with which he meets individualism on its own ground. This ground is distinctly, if crudely, metaphysical. The individualist, not to mention the anarchist, is indifferent to the historical, and directly opposed to the positive, treatment of the subject. To have met this evolutional danger in its very brunt, and to have met it with large, calm reasonableness, is a distinct merit.

But there is an even greater value attaching to the work performed by Professor Green. The negative character of the *laissez-faire* period has left grievous evils to accumulate; and has allowed needful positive reforms to go at a snail's pace, if it has not been positively hostile to them. Indeed, the individualistic and anarchistic manifestations are danger signals arising from that very neglect or opposition. In restoring the maimed state to its fullness of function, while yet making the latter coincident absolutely with the needs for protection and development of the individual's highest good, Professor Green sets up a standard by which all existing institutions and all proposed reforms may with safety be tested. Altogether, therefore, Professor Green's book is at the present moment the best text on its particular specialty for the hands of our collegiate youth.

CHICAGO, ILL. WM. J. ECKOFF.

La Teoria del Valore nella Storia della Dottrine e dei Fatti Economici. Di G. RICCA SALERNO. Roma, Accademia dei Lincei, 1894.

The distinguished Palermitan professor whose work is before us tells us that it is the result of a conviction that the theory of value has not yet received adequate historical treatment. His purpose, therefore, is to make a full and critical examination of the development of the theory, with especial reference to the objective economic phenomena that have accompanied the evolution. That such a study is of the highest importance cannot be questioned; and the qualifications of the author for the task no one would venture to dispute. While, therefore, we may not be satisfied that all the vexed questions about value are finally settled in the present volume, a summary of its contents cannot fail to be both interesting and suggestive.

Taking up first the general principle of value, Ricca Salerno starts from the theory of final utility, undertaking to show its historical development and its dynamic character. He reduces the theory

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substantially to this: the formation of value depends on two elements, the natural utility of things and the limitation of their quantity in relation to the demand. Now, the quantitative limitation of things constitutes the specific condition of wealth and value. The fundamental economic proportion takes the form of an equation, or utilitarian correspondence, between the amount of the work performed and the value of the products, and this equation subsists through all economic stages.

According to the author, Ricardo has given us in his theory an admirable analysis of some concrete instances of the law of value; but in formulating that law in accordance with those cases alone, he has failed to rise to a synthetic general principle, or to reach the hidden cause of value. Marx's theory has perfected Ricardo's, by making labor the basis of value; but it has failed to account for the ultimate cause of value, namely, the relative utility of commodities, by which the distribution of productive forces among the various branches of production is determined. The real foundation of value is utility, not natural, not absolute, but relative — that is to say, utility in relation to the varying nature and intensity of needs, and to the amount of the commodities ready for use.

But the weak point in the utilitarian theory consists, according to Ricca Salerno, in this, that it refers to wealth produced under certain circumstances, while production and needs are relative facts depending on historical economic conditions. The reasoning of the utilitarian theorists moves in a vicious circle: the importance of the last needs, by which the final utility for the individual, or say the value of wealth, is determined, depends upon the relative amount of wealth itself. Now, as this amount has to be reproduced, it presupposes a proportion of value already established, by which production may be regulated and labor stimulated and guided. To go out of this vicious circle, the various economic relations must be taken back to the fundamental correspondence between the quantity of the work performed and the value of the wealth produced.

The general principle of value being thus laid down, Ricca Salerno proceeds to examine its transformations through the different historical phases of economic conditions. In the primitive economic forms, he says, the conditions being uniform and the means of production simple, the value of products was entirely proportional to the amount of labor required to create them. Owing to the scantiness of capital, the difficulty and slowness of its accumulation, the fewness of the tools and materials applied to production, and the

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small intervals of time between the performance of the work and the obtaining of the products, the correspondence between the amount of labor and the value of its products was real and perfect. Under these conditions the worker was independent, and labor, capital and land were united.

But in the process of time production became diversified, capital was applied to it in different forms and increasing proportions, and a profound economic change followed. In fact, the proportion of indirect labor performed, or in other words, the amount of previous labor materialized in capital, went on increasing steadily; the intervals between the performance of the work and the completed production of the resulting commodities, came to vary greatly, and this caused differences in value. To be sure, the fundamental equation between labor and the value of its products remained, but it underwent modifications and transformations, owing to the intervention of capital and the varying proportions in which it was applied to production. These circumstances have been, according to Ricca Salerno, overlooked by the socialists, who have judged the present state of economic relations by the same criterion and the same laws that are applicable to primitive stages. Ricardo, on the contrary, clearly perceived that his law did not apply to cases in which there were differences in the duration of capital, in the proportion between capital and labor, and in the length of time required by the productive process. Unfortunately, he considered such cases as exceptions — exceptions all important in the present state of social economy — and at the same time made the mistake of formulating an abstract and unchangeable principle, while the principle of value is essentially dynamic.

Now, in the historical development of economic relations the originally uniform correspondence between the amount of labor and the utility of wealth has been replaced by a specific, manifold, variable correspondence, which assumes different aspects according to differences in the productive periods and in the local conditions under which labor is performed. After the first stage, in which the uniform equation between labor and value obtains, the economic evolution is represented by three classes of cases: (*a*) As to agricultural products, the equation establishes itself between the final utility of such products and the greater amount of labor required to grow on less favored soils the last portion of them that is necessary. (*b*) Where fixed capital contributes to production in higher proportions, the value of the commodities increases as the proportion of

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fixed capital is larger. (*c*) The value relations among products vary with the variation of the times intervening before they are ready for use. In fact, present commodities have a higher value than future commodities, since the former depend on work already performed, that is, performed at an earlier date.

These deviations from the correspondence between labor and value appear as the process of production grows complex. The higher value of products referable to earlier labor, materialized in capital, is, then, ascribed to the tools and materials by means of which the productive period is lengthened. But it is a mistake, says Ricca Salerno, to ascribe to capital, on this account, a special productiveness and a part in giving value to the product. The converse is true. The product does not acquire a greater value from needing a greater proportion of materials and tools; on the contrary, these tools and materials — capital — acquire a differential reflex value from the high value of the product, corresponding to labor of an earlier date.

By this theory Ricca Salerno accounts not only for the profit of capital but also for the rent of land in the present stage of economic development. Rent, he says, is not properly the result of the different productiveness of soils, but of the greater labor rendered necessary by production on less fertile lands. Indeed, as the latter are gradually used for cultivation, and the value of the product of the best soils no longer corresponds, except partially, to the quantity of labor applied to them, a balance is left, which consolidates itself in the better soils, and proceeds from the differential labor bestowed upon the less fertile ones.

The owners of commodities now ready for use, or of agricultural produce grown upon the more favored soils, receive in exchange a value more than proportionate to the quantity of labor expended in production, and, therefore, an excess of wealth, which constitutes respectively profit and rent. From this differentiation in value arise all the phenomena of the various classes in production, the differences in individual shares of the products, and the distinction of profit or rent and labor.

Starting from these principles, Ricca Salerno criticises the various doctrines of value, particularly the doctrine of cost. In all these doctrines the derived phenomena of value have, in his opinion, been mistaken for its fundamental characteristics; the transitory effects of its alterations have been mistaken for results of its permanent constitution. In seeking the cause and the law of value in labor, in

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land, in capital, in the efforts and sacrifices required by production, that is, in the partial and reflex manifestations of value, economists have failed to detect the general principle which determines its nature, its various phases and their intimate connection with each other. They have inverted the order of effect and cause, and have made value the effect of economic facts and relations of which it is really the cause.

The author proceeds next to explain the dynamics of exchange, starting from the principle of relative utility. In the discussion of this particular subject, he accepts — not, however, without enlarging and illustrating it — the doctrine of Böhm-Bawerk. All the phenomena of distribution are thus brought into connection with the theory of value: the capitalist draws his profit from the exchange of a finished product for a commodity surrendered at some previous time; the workman receives his wages as an amount of present commodities exchanged for the future product; the landlord gets his rent from the exchange of his agricultural products for manufactured ones, in the measure determined by the most costly production. The differences in values in wealth obtained at different times and places, determine the comparative utility that gives rise to the aforesaid exchanges, whereof they at the same time constitute the basis.

In the last part of his work Ricca Salerno delineates, with great vigor of synthesis and breadth of learning, the economic evolution in its successive stages. In these the progressive increase of population brings about various determinations of value, about which social relations and the whole economic constitution shape themselves. Thus he interprets the various phases of economic history, down to the capitalistic system prevailing in our days.

Limitations of space forbid any extended criticism of the suggestive theory which I have very summarily outlined. For reasons stated on other occasions, I do not accept the Austrian theory of value, which Professor Ricca Salerno has endeavored to make fruitful by the application of the historical method. To connect, as the author does, all the principal economic phenomena with one fundamental principle, involves the exercise of great ingenuity and produces a plausible appearance of logical acuteness; but on close examination, it is hard to escape the impression that this unification is somewhat forced and artificial. Again, the conclusions at which he arrives through his investigations concerning value are discouraging. It is useless, he says, to seek for anything real in value in exchange — to search for the secret of the objectivity of value. An objective basis

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of value is mere delusion. All we actually have is but a variety of individual values and relative differences between utilities, wherefrom exchange arises. But surely Professor Ricca Salerno must admit that when the fundamental phenomenon, upon which all the others are made to depend, is reduced to an expression so vague and inconsistent, and when its objectiveness, moreover, is absolutely denied, the situation is not inspiring. If his view were true, what would become of the whole science of economics?

Lastly, the interpretation which Ricca Salerno gives of the historic evolution of economic conditions, while ingenious, would seem to require a much ampler treatment, and a better support of historical investigation. Although diverging from Loria's, it unmistakably has some points of contact with it; and, on this account a comparison of the two interpretations would be advisable.

But all the queries one may sincerely raise can in no degree diminish the importance of Ricca Salerno's researches. These may leave the everlasting question of value still open, but they certainly furnish what may without the least exaggeration be called the best scientific contribution of our day to its solution.

Ugo Rabbeno.

University of Modena.

Economics and Socialism. A Demonstration of the Cause and Cure of Trade Depressions and National Poverty. By F. M. Laycock, LL.B. London, Swan Sonnenschein & Co., 1895.—390 pp.

This book reviews the more fundamental principles of economics for the purpose of testing the claims of socialism, on the one hand, and of the single tax, on the other. A primary object of the work is to point out the contrast between these two ideas, and to establish the fallacy of socialism and the beneficence of the single tax. The author believes in a natural and individualistic system of industry; and his view of what may be realized under such a system is intensely optimistic: "If, then, mankind pays each man, as nearly as it can judge, according to the service he renders, it follows that, with equality of opportunity, he who receives most renders most service." This result, he admits, is not yet realized; but he contends that it may be gradually approached if the civil power shall be so exercised as to ensure the necessary equality of opportunity, and that the most important measure tending in this direction is the concentration of all taxes into a tax on land.

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There is a passage which seems to imply that the virtual confiscation — the direct seizure of rent for the benefit of the state — which is to some an essential part of the scheme, is, in the author's plan, to be at least partly avoided. Owners are to be paid for the portion of land value itself that they really own: the boldest spoliation of the landlord class is apparently not to be practiced. The burden of the argument is that, when once introduced, the land tax will operate as a remedy for trade depressions and for natural poverty; and that, in its continuous working, rather than in its introduction, it will be in harmony with ethical principles.

As the ordinary plea for the single tax fails in its endeavor to justify morally the spoliation involved in seizing rent, this argument fails on the more practical side. It does not show how spoliation could, in practice, be wholly avoided; and to the average reader it probably does not show that the tax, if it could be imposed without robbing the land-owners, would, as a result, relieve poverty.

J. B. CLARK.

Report of the Massachusetts Board to Investigate the Subject of the Unemployed. DAVIS R. DEWEY, DAVID F. MORELAND, HAVEN C. PERHAM, Commissioners. Boston, 1895.

This document of nearly 800 pages (House Doc., No. 50), submitted by the commissioners in January and February, 1895, is an excellent piece of work in social investigation. It is not too much to say that thus far it is something of a classic on the subject.

Part I of the *Report* deals with measures adopted in the winter of 1893–94 for the relief of the unemployed in cities and towns of Massachusetts and elsewhere. A brief summary of methods and results is given for the five different agencies officiating in relief work:

1. *Special relief committees.* In most communities the applicants for relief were almost wholly of the unskilled-labor class. Taking the applicants in the mass, with proper exceptions, "they were economically inefficient members of society." Relief by citizens' relief committees was given on investigation to resident applicants only; non-residents were cared for by the public poor authorities. None of the emergency enterprises conducted for relief of the unemployed was industrially profitable.

2. *Relief on public works.* Twenty-one cities out of thirty gave employment on public works, regular or special. Of the forty-one

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towns, thirteen attempted to do likewise. The wages paid varied from $1 to $2 per day, and occasionally rose above $2. From a business point of view the work done under emergency conditions was estimated to cost between twenty-five and sixty per cent more than by contract, labor employed under these conditions being almost always inferior in efficiency.

3. *Relief by labor organizations.* Relief came to some extent from savings accumulated in prosperous times, but mainly from extra funds on hand that had been raised for other purposes, from special funds voluntarily contributed by members for official distribution, and from money collected from various outside sources in aid of any persons known to be in want from non-employment. The labor representatives on public committees showed a marked degree of capacity in dealing with the situation.

4. *Relief by private charities.* In this class of relief charity-organization societies, churches and individuals engaged. The first of these generally confined themselves to investigation and to directing applicants to sources of material relief. The churches generally furnished material aid. The Boston Associated Charities dealt with fifty per cent more cases in 1893–94 than in the previous year; so also in Worcester and Lynn. In Lawrence, Lowell and Springfield the number of aided families increased 100 per cent over 1892–93.

5. *Relief by public poor-departments.* This kind of relief is given to persons having no settlement in town, city or state, by the state board of lunacy and charity, and to persons having settlement, by local poor-boards. As compared with the preceding year, 1893–94 showed an increase of 33,000 in the number of persons relieved, and of $81,000 in the expenditure.

The public poor-departments of all the cities and towns of the state granted out-door relief alone to the amount of over $700,000 for 1893–94. Thirteen citizens' relief committees raised about $147,000. Appropriations to give employment on public works for relief of the unemployed amounted to $353,000. Thus the total from these three classes of relieving agencies reached $1,200,000.

Part II of the *Report*, on "Wayfarers and Tramps," makes clear the distinction between honest work-seekers and "dead-beat" tramps. The weight of evidence tends to show that not more than one in ten of those who apply in ordinary times is deserving of assistance. The other nine — the professional or occasional tramps — will never face the requirement of hard labor as the condition of receiving aid. Hence universal experience suggests a

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rigorous work-test as the essential expedient for ridding the community of tramps. A state labor colony is recommended.

In Part III, on employment on public works, the commission deals with current proposals looking to the more extensive engagement of the state or municipal authorities in industrial enterprises as a guarantee of employment. The propositions considered were these:

1. That the state or municipality should establish factories or engage in industrial enterprises, with a view of giving employment.

2. That the state should establish state farms.

3. That the state should increase its ordinary public works, and assign a part of such undertakings to the winter season.

4. That the public works, of either the state or municipality, should be executed directly by the public authorities, and that no work should be done by contract.

5. That in all public works only residents should be employed.

After considering a large body of testimony on the subjects the commission concludes:

1. That as a rule the city does not do construction work directly as cheaply as can a contractor to whom the work is entrusted.

2. That in exceptional cases, with civil service rules well enforced, unrestricted by ordinances on rate of wages and condition of labor, the city can do its own work as cheaply as any private employer of labor.

3. That the work is generally better in quality when done by direct municipal employment than when done by contractors; but as small cities cannot do certain kinds of difficult work, no legislation restrictive of the contractive right of cities can be recommended.

4. Non-employment is frequently aggravated by the influx of non-resident and alien laborers brought in by contractors.

5. The plans for the establishment of factories or farms on state initiative appear impracticable.

Part IV, on the causes of non-employment, is the result of special inquiries made into the conditions of eight typical industries.

Part V, on remedies, after reviewing the temporary measures resorted to, suggests permanent preventive measures as follows:

1. Removal of residents of cities to the country and farms.

2. Abolition of the competition and hence displacement of free labor that is occasioned by the labor of inmates of reformatory and penal institutions.

3. Reduction in the hours of a day's labor.

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4. Restriction of immigration.
5. An extension of industrial education.
6. Improvement in intelligence and employment offices, or establishment of free employment offices.

Each of the five parts of the report is followed by a full index and well-selected evidence, very little if any of which serves as padding. Part I has besides a select bibliography on measures for relieving the unemployed in American and European cities. There are ample statistical tables. This part of the work is particularly well done. There is nothing radical in the recommendations. On the whole the *Report* is one of the most luminous documents on the question in this or any other land. It deserves to rank with the report of the Parliamentary commission on labor issued in Great Britain during 1893–94.

JOHN FRANKLIN CROWELL.
SMITH COLLEGE.

Life and Labour of the People in London. Edited by CHARLES BOOTH. Vols. V. and VI.: Population classified by Trades. London, Macmillan & Co., 1895. — Small 8vo, 416 and 382 pp.

These two volumes, continuing the general sociological description of the working classes in London that was begun in the previous volumes, may be said to be based on the census, and at the same time to be illustrative and explanatory of the census figures. First, for each large trade or group of trades the census figures of 1891 are carefully analyzed. For instance, there were 32,666 painters and glaziers, including 161 females. Of these 22,982 were heads of families; the total number of persons represented by them was 105,956; and the average size of the family was 4.61. Of the heads of families, 65 per cent were born in London, and 35 per cent out of London. Of the total number, 7 per cent were employers, 84 per cent were employed, and 9 per cent were neither. The average age was greater in this than in other trades — a fact that is due to the influx from the provinces and the frequency with which men resort to this trade late in life. Nearly one-half of the families lived in "crowded" house conditions, that is, with two or more persons to a room.

These carefully arranged statistics give us a pretty fair notion of this trade. They are supplemented by the results of private inquiries in respect to the regularity of employment, the usual number of working hours, customary wages, membership in trade unions and benefit societies, the general prosperity or decline of the trade,

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apprenticeship, habits of the workmen, relations to employers, and condition of their homes. The whole study exhibits a judicious blending of the "statistical" and the "individual-monograph" methods of describing social conditions which is both interesting and instructive. Criticism will undoubtedly be heard from the partisans of each of these methods, but I know of no other work where the two have been so successfully combined as in these two volumes. The effect is much more satisfactory than, for instance, in Mr. Booth's previous volumes, or in Commissioner Wright's *Slums of Great Cities*, or in *Hull House Maps and Papers*.

It will be objected, from the statistical side, that the book contains too great a mass of details, which no human being can ever hope to remember or to bring into orderly arrangement. It is like the continuous drama of the Chinese theatre where the play goes on forever — simply incidents, without plot or conclusion. It may be answered that the framework is statistical; and in one respect, at least, Mr. Booth has given us a very remarkable statistical analysis. On the basis of the number of rooms occupied and the keeping or not keeping a servant, the whole population of London has been classified according to social condition. The general result goes to show that 31.5 per cent of the population is "crowded" and 68.5 per cent is "not crowded." Comparing these figures with the 30.7 per cent living in poverty and 69.3 per cent living in comfort, which resulted from the former investigation made by the school-board visitors, we have a remarkable coincidence. Mr. Booth hastens to say that the classes are not absolutely coincident, because living in close quarters is no certain test of poverty, and while some districts are more crowded than poor, others are more poor than crowded.

The followers of Le Play will probably maintain that the method here employed is not the true "monograph" method, that is, the analysis of single families according to all the facts regarding their economic, social and moral condition. But notwithstanding the admirable lessons which have been forced upon us by that school as to the value of minute investigation of social conditions, yet the results have always seemed to be somewhat fragmentary and incapable of coördination. It is a relief to have the isolated facts bound together by some sort of a classification in groups.

Finally, scattered through these pages are interesting notes of economic conduct and economic evolution which would have delighted the soul of Adam Smith. Such are, the refusal of the shipwrights to do iron work and their subsequent regret that they had

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given up the best part of their trade to the boiler-makers; the persistence of some trade unions in refusing any reduction in wages until the whole trade had been lost; the loss of the watchmaking trade to London because the masters neglected to adopt new improvements; the changes in method, the introduction of machinery; — in short, vivid pictures of the constant movement necessary to keep industry alive.

RICHMOND MAYO-SMITH.

La Question Monétaire. Mémoire par G. M. BOISSEVAIN. Traduit du Hollandais par J. F. RODE. Paris, Guillaumin & Cie., 1895. — 100 pp.

M. Boissevain was a representative of the Netherlands at the Brussels monetary conference, and he now presents, in a brief compass but with entire clearness, the view of enlightened advocates of international bimetallism.

In its crudest form the monetary controversy in the United States resolves itself into the question whether this country alone shall resume the free coinage of silver dollars having in pure metal sixteen times the weight of gold dollars. While the popular debate is on this issue, works advocating international bimetallism are much in point, and the circulation of them would be exceedingly useful. The first question to be decided is that of nationalism as opposed to internationalism in monetary policy. Shall we try to live by ourselves, and govern our coinage much as we should do if our own boundaries included the civilized world? The absurdities of such a policy are clearly exposed by an argument for international bimetallism that reaches a scientific level. The work of M. Boissevain is, indeed, a plea for the coining of both gold and silver; but it is even more strikingly a plea for internationalism in monetary policy. What the author desires is, not a union like the Latin Union, but one that shall so regulate the coinage of each constituent country as to afford an assurance that both gold and silver shall be used as media of international payments, in a ratio that shall be everywhere uniform; and that no legal obstacles to the free importation of either metal on this basis shall anywhere be created.

The work points out the evils of a "hybrid system," in which both gold and silver have the legal-tender quality, without being commutable, or legally exchangeable, the one for the other. He combats the view that, when they are so used, they are to be regarded as two different commodities, the value of each of which has inde-

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pendent variations. The use of both as money reacts on their several values and makes them interdependent. Much coining of silver and melting of gold would raise the value of the one metal and depress that of the other. He gives extended tables to show that the price in silver of merchandise has not greatly varied in recent years, while gold has gained in power to purchase goods in about the same ratio in which it has gained in power to buy silver. He protests against the view that a perpetual fall of general prices is attended by no serious evils.

The kernel of any argument for international bimetallism must be that law of compensatory action which was propounded by Wolowski, by virtue of which an alternating coinage of gold and silver should keep the value of standard coins of each metal uniform. M. Boissevain has effectively presented, in the light of recent events, the theoretical case in favor of the bimetallist policy.

J. B. CLARK.

Principles and Practice of Finance: a Practical Guide for Bankers, Merchants and Lawyers. By EDWARD CARROLL, Jr. New York, G. P. Putnam's Sons, 1895. — vii, 311 pp.

There is an unfortunate confusion in the English use of the word finance. According to continental usage "finance" ought to mean the science of governmental revenues and expenditures; but English writers have persistently applied the name to that part of political economy which has to do with monetary and commercial affairs. Not only is this the popular usage, but it has the authority of such eminent writers as Jevons and Giffen; so that Bastable has felt obliged to recognize the double meaning of the word. It is not a difficult transition to apply the same term to the affairs of a municipality, for example, and to those of a private business corporation; so it is not strange that the word finance should be applied in both cases.

The existing confusion in England and America is so great that it is impossible to predict whether a book entitled "Finance" will turn out to be a treatise on public economy or a manual of stock-speculation. Under these circumstances one is not surprised to find that Mr. Carroll's book is a good deal of a mixture, without containing anything which the title would suggest to a German or Italian reader. It is avowedly an attempt to combine a treatment of the principles of monetary science with a description of certain

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business transactions. The "Principles" are set forth in Part I — a few pages of ill-digested political economy, dealing chiefly with the mechanism of exchange. There is no exhaustive treatment of the silver question, but the author shows in a few words that he has no sympathy with bimetallism. Part II is devoted to "Practice," and contains some useful information on a variety of topics. Here the author describes the currency and banking systems of the United States, and the architecture and operations of the New York sub-treasury, clearing house and stock exchange, besides explaining the business methods of corporations and commercial houses in general, and the mysteries of stocks and bonds, bills of exchange and various other forms of credit. Nearly half the book is devoted to the operations of banks and similar institutions, such as trust companies and building and loan associations. At the close there is a summary of the statutory provisions of all the states and territories relating to rates of interest, days of grace and legal holidays, and a glossary of commercial terms.

The book is badly written, and entirely devoid of references. Indeed, it would be difficult to find authority anywhere for some of its statements, as for example the various original and remarkable definitions of "capital." After leaving the pitfalls of economic theory the author is more at home, but even his statements of fact are not always reliable, and are sometimes quite unintelligible.

COLUMBIA COLLEGE. MAX WEST.

La Propriété Foncière en Grèce, jusqu'à la Conquête Romaine. Par PAUL GUIRAUD. Paris, Hachette, 1893. — 654 pp.

This is a work that well deserved to receive, as it did, the Bordin Prize from the Academy of Moral and Political Sciences, and to be printed, as it has been, at government expense, upon the advice of the *comité des impressions gratuites*. The author has laboriously brought together every scrap of information as to property in land and agrarian conditions generally, to be found in Greek literature; he has arranged it systematically; and he has commented on it with a good deal of judgment.

His main conclusions may be briefly stated. The history of property in Greece began, he holds, with family ownership; of communal ownership he finds no trace. From family ownership, individual property slowly disentangled itself. But it is to be noticed that he identifies the early family with the γένος, and finds a parallel for

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it in modern Slavonic house-communities. He believes that in the heroic age estates were large; that by the time of Aristotle they had come to be very greatly subdivided; and that in later centuries a new system of "*grande propriété*" grew up out of the indebtedness of the small owners. Slavery apparently existed from the first; but serfdom arose subsequently to the Homeric age, and though many causes contributed to it, M. Guiraud seems to think it is substantially explicable as hereditary freedmanship (page 122 *seq.*). He does not restrict himself to the larger aspects of his theme, but adds several chapters on the land law and legal procedure of the age of Demosthenes.

Detailed criticism of the argument must be left to classical scholars. It may, however, be observed that M. Guiraud hardly realizes with sufficient clearness how scanty the evidence is on some points of the first importance, how doubtful is its interpretation in many cases, and how slight is the value to be attributed to much of it. His style is clear and straightforward, if not particularly lively; but the book could have been compressed with advantage, and many safe but trite reflections might have been omitted. It is a typical example of specialism, without literary charm or width of outlook, but conscientious and thorough. So far as it goes, it is worthy of a pupil of M. Fustel de Coulanges, — and this M. Guiraud gives us abundant reason for supposing he will regard as high praise.

HARVARD UNIVERSITY. W. J. ASHLEY.

A Scientific Solution of the Money Question. By ARTHUR KITSON. Boston, Arena Publishing Co., 1895. — viii, 418 pp.

The author of this book has attempted a great work. He is convinced that "the money question is the key to all the various other social questions," and he is convinced that he himself has discovered the true solution of the money question. Hence he claims to point the road to the "emancipation of industry" and universal prosperity. His aim is praiseworthy.

In political economy up to the present time he finds nothing good. Apparently the economists are to blame for all our ills; for the author says that the wasteful and unjust distribution of products into wages, rent and profits has taken place "under the régime of political economy," which, if a "true science," should "answer all the riddles that have for ages been propounded by the social sphinx," and should "abolish want and the fear of it." He fails to point out,

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however, that political economy is in good company. Despite the great advances in the sciences of meteorology and geology, we still have drouths and earthquakes.

The author next attacks the various points of economic theory in turn, and disposes of the whole body of doctrine to his own satisfaction. This is preliminary to his solution of the money question. This solution lies in the firm grasp of the idea of value as a "ratio," and therefore as something which cannot be measured, but can only be expressed. This idea leads him to the conclusion that money cannot be a measure, but must be rather a means of expression. Evidently a commodity expresses nothing. This can be done only by language and numbers. Money then is a system of numbers. It was all right originally to compare commodities in terms of gold, "using gold merely as their arithmetic." But the ratios being established, there was no further use for the commodity. The numbers should have sufficed. It would be simpler if Mr. Kitson, having abolished the thing money, should abolish the word money, and come out frankly for the multiplication table. The practical use of numbers as money is to come through printing these numbers on paper, which is evidently cheaper than gold. But this printing is to be no longer a government monopoly. It is a right that "must revert to the people"; that is, everybody is to print as much as he needs. "The *only* requisite, says the author, which these notes need to constitute money is, that the members of the community shall agree to accept them from each other in exchange for products." This is true. It now only remains for somebody to discover such a community. The author actually refers to the experience of the colonies during the Revolution to show that paper can be used as money. This is an astonishing slip. In putting forth his scheme as something new he should never have admitted any knowledge of the French *assignats* or the paper money of our Revolution. He does, however, omit to record that the trial made by the colonies of a scheme similar to his resulted in the notes being used to paper a barber shop.

The good in this book is the light it throws on the use that can be made of certain very doubtful passages in some standard works, and on the real inconsistencies (besides many fanciful ones) which exist in the writings of some first-class economists. It also serves to show that we may look in the future as in the past for a certain regular output of arguments in favor of fiat money, whatever the attitude of the popular mind at the particular moment.

The author concludes by declaring that the money problem is

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"the *fin de siècle* problem." We believe this has escaped the notice of Herr Nordau in his examination of the many meanings of that overworked phrase. If, however, that imaginative scholar were to turn his attention from art and literature to some so-called science, he might find ample material for a second volume of *Degeneration*.

BOWDOIN COLLEGE. H. C. EMERY.

The American Historical Review. Vol. I, No. 1. Editors: G. B. Adams, A. B. Hart, H. P. Judson, J. B. McMaster, W. M. Sloane, H. Morse Stephens. J. FRANKLIN JAMESON, Managing Editor. New York, Macmillan & Co., 1895. — 208 pp.

The appearance of this new quarterly will be welcomed by all in this country who are interested in historical study, and by scholars of other lands whose attention may be directed to American political or social development. In external form it leaves nothing to be desired. It is the express intention of its editors that its pages shall be open to contributions from workers in all parts of the domain of universal history, while attention will of course be chiefly devoted to the mediæval and modern periods. Certainly, then, the scope of the publication will be broad enough to justify its name and to satisfy the most catholic taste. Some space will be devoted to the printing of original documents, but apparently the aim is to make the *Review* as largely critical as possible.

To the first number Professor Sloane contributes an article on "History and Democracy," and Professor Tyler one on "The Loyalists of the American Revolution"; Henry Adams writes on "Count Edward de Crillon," Professor Turner on "Western State-Making in the Revolutionary Era," and Henry C. Lea has a brief paper on "The First Castilian Inquisitor." Of these all but the last concern American history. Professor Turner's article is distinctively an investigation, the first installment of a careful study of the origins of Vandalia, Transylvania and the other commonwealths early founded by the settlers west of the Alleghanies. Professor Tyler contributes what has long been needed, a plea for the fair treatment of the American Loyalists. This article, together with Professor Sloane's paper, may be taken as indications that this *Review* will stand for a less partisan and more catholic treatment of early American history than has hitherto been common.

Out of a total of 208 pages in this number 87, or about two-fifths, are devoted to book reviews. The utility of this department is beyond

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question, but of some of the reviews which appear here the most noticeable characteristic is diffuseness. The "Notes and News" at the close of this number contain much useful information concerning recent publications, with notices of the lives of prominent historians lately deceased. Only the best wishes can be expressed for the success of so worthy an enterprise thus auspiciously begun.

H. L. OSGOOD.

Les Origines du Droit International. Par ERNEST NYS. Brussels, Alfred Castaigne, 1894. — v, 414 pp.

For a number of years Professor Nys has been engaged in studies that relate to the origin of international law. His monograph on the history of international law in England, which was published in 1888, was reviewed at the time in this QUARTERLY, and the hope was then expressed that he would continue to prosecute his investigations on the line on which he had begun them. The present work is a comprehensive presentation of the results of studies of which particular portions have heretofore been published.

In a broad sense, Professor Nys observes, a history of the law of nations may be said to embrace the entire history of humanity. It is, however, in the latter part of the Middle Ages, the period preceding the era of the modern civilization, that the student of the origin of international law finds his most important materials. The middle ages, according to Professor Nys, formed, to a greater extent than is commonly supposed, an epoch of discussions. We find among the mediæval writers disquisitions not only upon questions relating to the Papacy and the Empire, but upon all sorts of questions that rise out of the pacific as well as out of the belligerent relations of peoples. The legitimacy of war and the causes of a just recourse to arms were minutely considered. The institutions of private war and reprisals, which long had legal recognition, were criticised, condemned and rejected. Wars against infidels formed the subject of polemics. Mediation and arbitration were suggested and tried. Appeals were made to public opinion, and the theory of the European equilibrium was established. Among the many examples given by Professor Nys of the appeal to public opinion I do not observe an early case to which Freeman ascribes much historical significance, — the appeal made to the European courts by William of Normandy, when he was preparing to move against Harold for the possession of the English throne. This appeal was made, however, not with a view to the

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peaceable settlement of a difference, but for the purpose of justifying a resort to arms.

Professor Nys concurs with Lorimer in the opinion that the scholastic jurists have been treated with injustice. It is certain that they have been treated with almost universal neglect. But Professor Nys shows, especially in his chapters on the causes of war, on war against infidels and heretics, on the declaration of war and the laws of war, and on peace and treaties of peace, how thoroughly the scholastics discussed many of the questions which were subsequently illumined by the genius of Grotius. As early as 1882 our author drew attention to this subject in his essay on the law of war and the precursors of Grotius; and in the following year another Belgian publicist, M. Alphonse Rivier, in his *Note sur la Littérature du Droit des Gens avant la Publication du* Jus Belli ac Pacis *de Grotius*, made a list of the early juristic writings, with comments upon their character. In the present work Professor Nys shows to what extent those writings furnished the ideas of later publicists.

In the chapter on diplomacy and permanent embassies, the author traces the growth of the European diplomatic system, from its early development among the Italian cities down to the period where the rights of embassy became established and the privileges of diplomatic agents were definitely understood. While the diplomacy of this early time is characterized by great formality and subtlety, one cannot fail to be impressed with the eminent character and attainments of the men by whom it was conducted.

It is a pleasure to recognize in the work of Professor Nys the product of extensive research and of sound learning. He has placed under obligations all students of the origin of international law.

J. B. Moore.

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RECORD OF POLITICAL EVENTS.

[From May 17 to November 10, 1895.]

I. THE UNITED STATES.

FOREIGN RELATIONS. — Amid a general calm in this field the only topic of importance has been the attitude of the United States toward **Spain and the Cuban insurgents.** Many manifestations of sympathy with the insurgents have appeared in all parts of the United States, and the so-called "Jingo" press has advocated governmental action in their support. The administration, however, has adhered strictly to its duties as a neutral. On June 12 President Cleveland issued a proclamation reciting the provisions of our neutrality laws, warning all citizens against violating them, and enjoining upon officers of the government the utmost diligence in their enforcement. In accordance with this proclamation the Navy Department has stationed several war ships in the vicinity of Key West to intercept the passage of Cuban sympathizers from Florida and other Gulf states, and the Department of Justice has been very active against attempts to enlist men or secure stores on behalf of the insurgents. Two incidents have been regarded as indicating the eagerness of Spain to remain on the best of terms with the government of the United States. The first was the prompt settlement of the *Alliança* affair (see last RECORD), May 16, by a disavowal of the Spanish cruiser's act, an expression of regret therefor, and a promise that no repetition of the act should occur. The second was the payment of the claim of an American citizen, named Mora, for property confiscated during the last Cuban revolt. The justice of this claim had been conceded by the Spanish government nine years before, but the payment of the money had been on various pretexts postponed. By resolution of the Fifty-third Congress the Department of State was directed to press the claim, and the result was its payment in September. — It is understood that the State Department, in accordance with the resolution of the last Congress, has made urgent representations to Great Britain as to the desirability of settling the boundary dispute with Venezuela by arbitration.

INTERNAL ADMINISTRATION. — **Cabinet changes** were rendered necessary by the unexpected death of Secretary Gresham, May 28. On the 7th of June the President announced the appointment of Attorney-General Olney to succeed Gresham as Secretary of State, and of Judson Harmon, of Ohio, as Attorney-General. — The payment of **sugar bounties** under the act mentioned in the last RECORD (p. 368) was brought to a standstill by the refusal of Mr. Bowler, Comptroller of the Treasury, to approve the claims. His ground was that the law granting the bounties was

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unconstitutional. His final decision on the subject, rendered September 5, referred the matter to the Court of Claims, from which an appeal may be taken on the constitutional question to the Supreme Court of the United States. The claimants appealed from the comptroller to the secretary of the treasury, who on November 9 heard the whole question argued, and will decide finally whether it shall go to the courts. — On July 26 Secretary Morton ordered the **abolition of the seed division** of the Agricultural Department. This action signifies the final success of the administration's efforts to stop the free distribution of seeds, which congressmen had sought to perpetuate. An opinion of the attorney-general, given last April, sustained the department's contention that it was lawful to send out only seeds that were "rare and uncommon to the country," and that it was in the secretary's power to reject all bids under proposals to furnish such seeds. Accordingly, Secretary Morton announced that "there will be no seeds purchased for gratuitous, promiscuous distribution during the fiscal year 1896." — At the end of July some alarm was occasioned by reports of trouble with the Bannock Indians in southwestern Wyoming. Troops were sent to the spot, but no disturbance ensued. It appeared later that the panic was due to an affray, attended with loss of life, between state constables and Indians. The latter, while hunting in the region, had been arrested for acts which were in violation of state game laws, but which, it is claimed, were authorized by the treaties with the United States under which the Indians had gone on their reservations. The questions at issue between the state and the national government have been taken to the courts for determination. A treaty was concluded with the Blackfeet Indians in September by which a part of their reservation in northern Montana, where important mineral deposits have been found, was sold to the government for $1,500,000. The sale is, of course, subject to the approval of Congress. — **Civil service reform** has again been materially advanced by action of the president. Messrs. William C. Rice, of New York, and John B. Harlow, of Missouri, were appointed in May to succeed Messrs. Roosevelt and Lyman as civil service commissioners. On May 24, at Secretary Morton's request, the president put into the classified service all the remaining excepted and non-competitive places in the Department of Agriculture above the grade of laborer, omitting only about half a dozen of the highest offices. Some 850 places were affected by this order, especial significance attaching to the fact that the chiefs of division were included in its operation. On June 13 the employees of the government printing office, 2700 in number, were also ordered under the classified service. This action was at the request of the employees themselves. On July 15, 500 pension-agency clerks were brought under the rules, and later orders extended the reform to about 400 places more in various departments. On the 20th of September President Cleveland, upon the recommendation of Secretary Olney, issued an important order in reference to appointments to the office of consul or commercial agent. It directs that every such office carrying a salary or fees of not more

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than $2500, or less than $1000, shall in the future be filled (*a*) by transfer of a qualified person from some other place under the Department of State; or (*b*) by appointment of some person who, though not in the department, has formerly served satisfactorily therein; or (*c*) by appointment of some person who, being named by the president, shall give evidence of his qualifications by a non-competitive examination. Finally, by an order of November 8, the president took the first step toward bringing the fourth-class postmasters under the civil service rules. The order contemplates the consolidation of lesser with large free-delivery offices, and provides that in such cases the postmasters of the former shall become employees of the latter, and hence shall be subject to the rules of the classified service.

THE FINANCES AND THE CURRENCY. — The condition of the Treasury has continued far from reassuring. At the end of the fiscal year, June 30, **the deficit** for the year amounted to $42,825,049. For the first third of the new year, ending October 31, the expenditures exceeded the receipts by $16,848,335, indicating a large deficit for the current year also. In maintaining **the gold reserve** the administration has been somewhat more successful. Under the operation of the contract of February 8 with the Morgan-Belmont syndicate (see last RECORD, p. 366) the gold in the Treasury increased steadily, till, with the last payment for bonds under the contract, June 26, the amount stood at $107,000,000. About the middle of July, however, withdrawals for export began to reduce this sum, and on the 29th the syndicate indicated a purpose to fulfill its obligation to sustain the Treasury, by depositing enough gold to make good the amount withdrawn. In August the drain on the Treasury's supply became very heavy, and successive deposits by the syndicate on the 13th and the 20th were all that kept the reserve above the hundred-million point. During September the same process continued, and various national banks not connected with the syndicate turned over gold to the Treasury, but even this did not avail to maintain the reserve, which had fallen by the middle of the month to about $96,000,000. On the 13th Mr. J. P. Morgan announced that the syndicate was accumulating gold all the time and turning it over to the Treasury, and that it would continue to do so even after October 1, when all obligations under the contract would terminate. The policy pursued by the syndicate in keeping up the Treasury's gold served to reduce materially the large profit which its members would otherwise have derived from the sale of the bonds. — An odd incident in connection with the general currency question was the issue of a manifesto, July 19, by Master-Workman Sovereign, of the Knights of Labor, calling for the establishment of a **boycott on national-bank notes.** The manifesto elaborated the familiar argument that the banks are responsible for all the alleged woes of the working classes, and urged "our people" to accept no national-bank notes in ordinary business transactions. Such a course, it was held, would precipitate the great conflict between the people and the banks, which would involve in its issue the corporations and every form of

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private monopoly, and would "establish an impassable barrier between the toiling masses of America and the Shylocks and pensioned lords of the world." The reception of the manifesto by the workingmen in general was apparently very cool, and no effect on the currency has been reported.

THE FREE-COINAGE MOVEMENT.—The convention of silver men which was in session at Salt Lake City at the close of the last RECORD, effected an organization called the Bimetallic League, with the object of securing the free coinage of silver at the ratio of 16 to 1. Under the auspices of this organization a large convention met at Memphis, June 12–13, at which delegates from all the Southern and most of the Western states exchanged views, and expressed their adhesion to the 16-to-1 platform. The sentiment of the assembly proved rather adverse to the idea of a national silver party, and favorable to the project of committing the national Democratic Party to the free-coinage doctrine. A conference of leading silver Democrats at Washington, August 14–15, adopted measures designed to render certain the approval of free coinage by the national Democratic convention in 1896. Meanwhile the free-coinage Democrats in various states had been seeking to commit their state organizations to their cause. In Illinois they were in a large measure successful, a special convention at Springfield, June 5, taking strong ground for the 16 to 1 free coinage, and against the Cleveland administration. Regular Democratic state conventions in Mississippi, Missouri and Nebraska adopted free-coinage platforms. In the latter part of May Secretary Carlisle made a tour in the South and West to check the silver movement among the Democrats. On the 23d he addressed a large convention of "sound-money" Southerners at Memphis, and later he took active part in Kentucky politics. The Kentucky Democratic state convention, June 26, rejected a free-coinage resolution by a large majority, though it nominated a silver man for governor. In August the party conventions of Iowa and Ohio also rejected free coinage, while in September an administration wing of the Nebraska Democracy took like action.

THE FEDERAL JUDICIARY. — The final decision of **the Income Tax Cases** was rendered by the supreme court on May 20. By a vote of five to four it was held that the income tax imposed by the act of 1894 was, taken as a whole, a direct tax; and that, since no apportionment among the states according to population was provided for, the act was unconstitutional and void. The opinion of the court was delivered by Chief Justice Fuller, and very vigorous dissenting opinions were presented by Justices Brown, Jackson, Harlan and White. — On May 27 the supreme court, by a unanimous opinion, denied the application for *habeas corpus* in **the case of Debs and others**, leaders of the railway strike in 1894 (see last RECORD, pp. 371, 372). It was held that the national government can remove obstructions to interstate commerce by action of either the executive or the judicial department; that in the latter case the civil proceeding by injunction is a proper one, though it cannot be considered as supplanting criminal prose-

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cution for violations of the law; and that the action of the circuit court in the injunction and contempt proceedings of this particular case was wholly within its jurisdiction. — On June 11 the circuit court of appeals at Richmond, Virginia, reversed the decision of the lower court through which an injunction had been issued restraining election proceedings under the South Carolina registration law (see last RECORD, p. 373). — On September 11 the circuit court for the western district of Pennsylvania denied the application for *habeas corpus* made by a railway official who had been committed for contempt in refusing to answer questions about rates put by the Interstate Commerce Commission. The court upheld the constitutionality of the act of 1893 requiring witnesses to answer in such cases, but exempting them from prosecution for acts to which they testified (see this QUARTERLY, VIII, pp. 378 and 383). The case was appealed to the supreme court. — Justice Jackson, of the supreme court, died near Nashville, Tennessee, August 8.

STATE ELECTIONS. — Elections for state officers were held in thirteen states on November 5, and were carried by the Republicans in eleven. Mississippi and Virginia alone went Democratic. The Republican majorities were in general exceptionally large, *e.g.*, in New York 97,000, Pennsylvania 162,000, Ohio 96,000, Massachusetts 64,000, New Jersey 25,000. Iowa held to her Republican allegiance, and in Kansas and Nebraska the Populists were again overwhelmingly defeated. But the triumph of the Republicans was most marked in Kentucky and Maryland, where they elected their governors by 8500 and 19,000 respectively. These two states have long been Democratic — the latter for twenty-nine years without a break. In Utah, the question of becoming a state was determined in the affirmative, a constitution was ratified, and the election of officers under the new state constitution resulted in a Republican majority of 1000.

VARIOUS STATE LEGISLATION. — In **South Carolina** the tension between the state authorities and the national courts has continued to occasion exciting incidents in connection with the execution of the Dispensary Law. The state constables still seize liquor imported from without the state and the United States judges as regularly punish the constables for contempt. The convention to revise the constitution assembled at Columbia September 10, and had not completed its labors at the close of this RECORD. The suffrage clause, as finally adopted November 1, establishes an alternative intelligence and property qualification for voting, and requires either the ability to read and write any section of the constitution or the ownership of $300 worth of property in the state; prior to January 1, 1898, however, there is an additional requirement of ability to explain any clause of the constitution to the satisfaction of the election officers. Among the other provisions that had been definitively adopted by November 10 was one explicitly conferring on the legislature power to deal with the liquor question either by prohibition, by the license system or by the dispensary plan already in operation. It was also decided that no divorce

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should be granted in the state for any cause, and no recognition given to divorces granted by other states. — Two important decisions have been rendered under the **Illinois** Anti-Trust Law. On June 1 the Cook County court, in the suit instituted by the attorney-general against the Pullman Company (see this QUARTERLY, IX, p. 768), held that the company had exceeded the powers granted in its charter in only two minor particulars, and that its operations in connection with the town of Pullman were incidental to its main purpose. The company's charter, therefore, was not forfeited. On June 13 the supreme court of the state affirmed a decision of the lower court declaring the Distilling and Cattle-Feeding Company (Whiskey Trust) illegal and directing that its affairs be wound up and its property sold. The corporation was already in the hands of a receiver. Under an act of the legislature the expediency of adopting the Torrens land-title system in Chicago was submitted to the people of the city on November 5, and was decided in the affirmative by a majority of 77,000. — Among the acts of the last session of the legislature in **New York** was one requiring that in the public schools a definite amount of time be given to teaching the effects of alcoholic drinks, tobacco and other narcotics, and prescribing a minimum number of pages to be devoted to the subject in text-books of physiology and hygiene. The bill was opposed by leading educators. In August the state court at Buffalo declared unconstitutional the law prohibiting the employment of aliens by contractors on public works. The act was held to be in violation of the treaty by which resident Italians enjoy the same personal and property rights as citizens. — In view of notorious preparations for a great prize-fight the Florida legislature, May 22, passed a stringent act against such contests in the state. Dallas, Texas, was then fixed upon as the site of the fight; but Governor Culberson summoned a special session of the legislature for October 1, and a law was speedily enacted making contests like the one proposed criminal. This action practically rendered the fight impossible within the United States. A supposed discovery by its promoters that the law of Arkansas could be stretched to permit the contest was met by unmistakable preparations of the governor to call out the militia to prevent the undertaking, and the battle was ultimately declared off. — A vote in Rhode Island, in the last week of September, on the question of substituting biennial for annual elections for state officers resulted in the defeat of the proposition, which failed to secure a simple majority, when three-fifths were required. — A strong but unsuccessful demonstration of the A. P. A. was made in Massachusetts against the renomination of Governor Greenhalge, the occasion being the participation of the governor in the celebration of a Catholic archbishop's jubilee. At the election in November the question of the expediency of woman suffrage was submitted to the electors and was answered in the negative by a majority of 70,000.

THE RACE PROBLEM. — Some revival of interest in the matter of **social equality** for the negroes in the North was caused by the enactment

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in New York, following recent examples in other states, of a law requiring equal accommodations for all citizens in restaurants, hotels, theaters and public conveyances. More or less systematic attempts were made by negroes in July to "test" the laws, and a number of suits for damages were started; but while some degree of support was given to the statutes by the courts, public opinion was not manifested in their favor, and interest in the subject quickly disappeared. — **Lynchings** in the South have been reported in rather greater numbers than usual. Of twenty-three cases noticed by the compiler, in which the victims were negroes, the crime alleged was rape in fourteen and murder or assault in nine. One of the latter cases was in Maryland, where the victim was under sentence of death, but the mob professed to fear that the governor was about to commute the sentence. Similar ground was taken by a lynching party which hanged two white men at Danville, Illinois, May 25. The offence was rape, and in a colloquy with a judge who was seeking to persuade the mob to disperse, the leaders announced their resolution to make sure that the accused should not be let loose upon the community by a pardon from the governor. An attempt by a mob at Tiffin, Ohio, to take a white murderer from jail and lynch him, October 27, was foiled by armed guards, who killed two of the assailants. A considerable force of militia was promptly sent to the place to preserve order.

MUNICIPAL REFORM. — The central topic under this head has been the enforcement of the saloon **Sunday-closing law in New York City.** Under legislation enacted during the spring the reform mayor of the city, Mr. Strong, effected a complete change in the *personnel* of the police commission, Mr. Theodore Roosevelt becoming president of the new board. On July 1 a reorganization of the police courts and lower judiciary went into effect, and the new system was manned by men in sympathy with the reform administration. The police commissioners had previously announced their resolution to enforce strictly the Sunday-closing law, which was notoriously either a dead letter or a mere instrument for blackmail in the hands of the police. On Sunday, June 23, the new policy was put into operation, amid protests from the German element of the population, apathy on the part of the police officers, and a widespread belief that the experiment would be no more successful than spasmodic enterprises of the same sort that had been undertaken before from sordid motives. The energy and activity of the commissioners, however, soon awoke the rank and file of the police force to a realization that they must do their duty; the coöperation of the new magistrates resulted in ever-increasing penalties on violators of the law; and each succeeding Sunday showed the rigor of the enforcement to be greater. Various attempts by the liquor-sellers to escape through legal technicalities the full force of the attack upon them were thwarted, and at last, on August 23, their organization, which controlled a large proportion of the saloons of the city, came to a formal agreement with the authorities to abandon the practice of Sunday opening and to aid in

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enforcing the law against non-members of their association. The work of the New York police attracted great attention throughout the country, and stimulated activity on similar lines in cities from the Atlantic to the Pacific. Another result was an ardent and widespread discussion of the policy of Sunday-closing laws, and of the liquor question in general. In New York State the political parties gave the matter an important place in their platforms. The police commissioners themselves studiously refrained from taking sides as to the policy of the existing law, and confined themselves to the simple ground that it was their duty to enforce what the legislature had enacted. In the November elections the city was carried by the Tammany Democrats by 25,000, and the Germans who were alienated from the Republicans by the Sunday-closing policy contributed much to this result.

II. FOREIGN NATIONS.

TURKEY AND THE ARMENIAN QUESTION. — Throughout the period under review the internal condition of the Ottoman Empire and the Porte's relations to the European powers have been conspicuous topics of discussion. Most prominent were the questions raised by the massacre of Armenians mentioned in the last RECORD. Stimulated apparently by the general indignation which this massacre aroused in Christian Europe, Great Britain, France and Russia undertook in May by joint action to bring about the administrative reforms to which the Porte was pledged by the treaties of Paris and Berlin (1856 and 1878). On May 11 the three powers presented to the Turkish government a memorandum and a scheme of reforms for Armenia, and demanded the immediate acceptance of both. The memorandum called for the appointment at once of a commissioner, approved by the powers, to whom supreme authority over the Armenian provinces should be entrusted, both in superintending the present administration and in carrying into effect the proposed reforms. By his side should be an assistant commissioner, who should be Christian or Mussulman as the superior was Mussulman or Christian. It was provided further that the appointment of *valis*, or provincial governors, should be subject to the approval of the powers, that the administrative divisions of the population should be rearranged with some reference to race, and that a committee of three Mohammedans and three Christians should sit permanently at the Porte to preside in last instance over the execution of the reforms. The memorandum of the powers required also amnesty for Armenians charged with political offenses, the return of Armenian emigrants or exiles, and reparation for the losses suffered by the victims of the late massacre in the Sassun region. The more elaborate scheme of reforms provided for a very far-reaching reorganization of the provincial administration on the lines of the system worked out by the committee appointed for the purpose by the Berlin Treaty. The project has been described as aiming to introduce "local self-government worked by a system of Christian and Mussulman

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checks and counter-checks." The Turkish government assumed a temporizing attitude on the whole subject, objecting strongly to those features of the powers' demands which looked to a permanent foreign control in Armenian administration. A change of ministers, June 8, which made Said Pasha Grand Vizier in place of Djevad Pasha, brought no change of attitude. Late in July it was rumored that the diplomatic pressure upon the Porte had been greatly increased through the policy of Lord Salisbury upon his accession to power in England. About August 1 Shakir Pasha was appointed commissioner for the Armenian provinces, but with authority far less than what the memorandum of the powers called for. On the 8th the Porte's final reply to the scheme of reforms was delivered, and it amounted to a definite rejection of the scheme, as derogating from the sovereignty of the Sultan. About this time a large British fleet left Alexandria and moved gradually northward along the coast of Syria. During this month it was reported that differences had arisen among the three powers, and the Porte made a formal protest to Russia and France against the attitude of Great Britain, describing it as "discourteous and derogatory to the Sultan's prestige." In September the Porte offered to accept a scheme of Armenian reform much less radical than the project of May 11. Meanwhile the British fleet had reached Salonica, and on September 28 a force of seventeen vessels anchored at the island of Lemnos, near the mouth of the Dardanelles. During all this time Armenian agitators had been more or less active in different parts of the Ottoman Empire, as well as in foreign lands, seeking to rouse a sentiment against the Turks. On September 30 a large band of Armenians in Constantinople undertook, against the urgent commands of their Patriarch, to go to the Sultan's palace to ask for redress of their grievances. They quickly came in conflict with the police, and a fight ensued in which a number of lives were lost on both sides. This incident precipitated further fighting during the following days, and the Softas and other fanatical Mohammedans harried the Armenians throughout the city. The conflict spread to other parts of the empire, very serious slaughter of the Armenians being reported from Trebizond and several Syrian towns. These disturbances were made the basis of fresh representations by the powers as to the necessity of prompt action on the Armenian reforms. On October 4 Kiamil Pasha succeeded Said as Grand Vizier, and on the 17th the Sultan issued a decree approving the scheme of the powers, with some slight modifications. This action was promptly followed by more serious and widespread disorder than had prevailed before. The extreme Mohammedans were incensed because advantages had been won by the Christians, and the extreme Armenians scoffed at the reforms as inadequate. At Constantinople a "Young Turkey" party, devoted to constitutional government for the whole empire, started a revolutionary propaganda, and seem to have been concerned in an unsuccessful palace plot to dethrone the Sultan. In Asia Minor, and particularly in the region of Armenia, conflicts

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between Turks and Armenians were reported from almost every province, and in some cases the latter were so clearly the aggressors, that a concerted movement under direction of their secret revolutionary organization was thought to be under way. But whatever the origin of the disturbances, by the first of November the reports indicated that Moslem ferocity had triumphed, and that a general slaughter of Armenians was in progress. Once more the Christian powers acted at Constantinople, Germany, Austria and Italy joining with the three that had acted before. On November 5 the ambassadors of the six powers separately, but in substantially identical terms, demanded of the Porte the immediate adoption of measures adequate to restore order. In the face of this demand fresh evidence of difficulty in the councils of the Sultan was given by another change of advisers, Halil Rifat Pasha becoming Grand Vizier. The reserves were called out to assist the regular army in restoring order, but the general attitude of the Porte toward the powers was that of resentment and evasion, and at the end of this RECORD a general movement of French, Italian and Austrian fleets to join the British at the Dardanelles was in progress. On November 9 Lord Salisbury, in a speech at the Guildhall in London, announced that the six powers were perfectly harmonious both as to the policy to be pursued at Constantinople and as to the means for enforcing it. — More or less related to the Armenian question was the **agitation in Macedonia** which developed in June, and which gave rise in that and the following month to some rather serious conflicts between the Turkish troops and small bands of insurgents along the Bulgarian frontier. The basis of the trouble was the demand for rights and privileges for the Christians in Macedonia equal to those which were being secured for the Armenians. Russophil societies in Bulgaria were at the bottom of the movement, and were supposed to be working with a view to promoting Russian interference in Bulgaria, should the Turks adopt strong measures to quell the disturbances. The Bulgarian government was somewhat sternly reminded by the powers of the necessity of suppressing the agitation.

GREAT BRITAIN AND IRELAND. — The fall of the Rosebery ministry followed an adverse vote in the Commons June 21. For more than a week previous the position of the ministry had been manifestly precarious. Its very slender majority was still waning through the results of by-elections. On the 14th of June it had been forced by the defection of its Irish allies to abandon a project for a statue of Cromwell at Dublin; and reports having some foundation, to the effect that Mr. Gladstone was not in full sympathy with the Welsh disestablishment policy, had contributed to the demoralization of the party. The decisive vote was on a motion to reduce the salary of the secretary of state for war, on the ground that the reserve ammunition for the army had not been adequately maintained. The motion was carried by 132 to 125, and the secretary thereupon resigned. Two days later, June 23, the whole cabinet followed his example, and Lord Salisbury undertook the formation of a ministry, on

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the understanding that the routine business of the session should be concluded and Parliament then dissolved. **Lord Salisbury's ministry** was constituted on the basis of a formal coalition between the Conservatives and the Liberal Unionists. The leading positions were filled as follows: Foreign Affairs, Lord Salisbury; President of the Council, the Duke of Devonshire; Chancellor of the Exchequer, Sir Michael Hicks-Beach; Home Department, Sir Matthew White Ridley; the Colonies, Mr. Joseph Chamberlain; First Lord of the Admiralty, Mr. Goschen; First Lord of the Treasury, Mr. A. J. Balfour; Lord Lieutenant of Ireland, Earl Cadogan. Parliament was prorogued July 6, and was dissolved two days later. **The general election** began July 13 and resulted in an overwhelming defeat for the Liberals. As finally made up in the first week of August the parties in the new House of Commons stood as follows: Conservatives, 340; Liberal Unionists, 71; Liberals, 177; Anti-Parnellites, 70; Parnellites, 12. This gave to the Conservatives a clear majority of ten over all, or to the coalition a majority of 152. Particularly conspicuous features of the contest were the defeat of Sir William Vernon-Harcourt at Derby and of Mr. John Morley at Newcastle; the gain of three seats by the Parnellites in Ireland; and the practical obliteration of the Labor Party in Parliament. — The new Parliament assembled August 12. In the House of Commons Mr. William Court Gully was reëlected Speaker without opposition. The Queen's Speech contained earnest reference to the Armenian troubles and to the massacres in China, but proposed no business except the appropriations. Upon the completion of supply, September 5, the session closed. — The condition of Ireland has remained exceptionally peaceful. In the ranks of the Nationalist Party, however, personal feuds have been conspicuously present among the leaders, and have paralyzed the party's power. In connection with the election Mr. Healy openly charged his rivals in the party with selling out certain constituencies to the Liberals. The official head of the party, Mr. Justin McCarthy, thereupon issued an open manifesto, August 7, holding Healy responsible for all the dissensions in the ranks, and attributing to his falsehoods and chicanery the loss of financial support from America and Australia and all the misfortunes of the Irish cause. It is admitted on all sides that no progress can be made toward the attainment of the party's ends until concord is restored.

THE BRITISH COLONIES AND INDIA. — In Canada **the Manitoba School Question** has continued to be the central point of political interest. On the 13th of June the Manitoba ministry laid before the legislature at Winnipeg its reply to the Dominion government's order requiring the reëstablishment of the Catholic separate schools (see last RECORD, p. 377). The reply was a firm but respectful refusal to comply with the order, on the grounds that the Catholic separate schools before their abolition had been inefficient, and that it would be financially and administratively impracticable for the province to maintain a good system of primary education on the principle of a separate set of schools for every

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religious sect that should demand it. This reply the provincial legislature approved on June 19 by a vote of 25 to 15. Under the constitution it then became the duty of the Dominion Parliament to pass the laws necessary to carry out the government's order. But serious political complications at once arose in view of such action, and on July 8 the ministry announced its conclusion not to propose remedial legislation till the first Thursday in next January, when, if the Manitoba legislature should not have acted, the Dominion Parliament would be asked to deal with the matter. This announcement caused a slight ministerial crisis, and the three French members of the cabinet resigned, though two of them were induced to withdraw their resignations. Later in the summer Earl Aberdeen, the governor-general, and Sir Mackenzie Bowell, the Dominion prime minister, were in consultation with the Winnipeg authorities, though apparently without effect upon the attitude taken by the latter. — From the papers submitted to the respective parliaments in the latter half of May it appeared that in the negotiations for the union of **Newfoundland** and Canada (see last RECORD, p. 378) the best financial offer that the latter felt able to make — about $1,405,000 in debt assumption, subsidies and administrative services — still left a large balance of debt to be carried by the former, which would necessitate taxation heavier than the Newfoundland government would venture to propose to the people. Accordingly the ministry gave up the idea of union, negotiated a loan in London to settle its floating debt, and started in on a policy of radical retrenchment. On July 4 this policy met with a check through the refusal of the governor to assent to a bill reducing the salaries of all government officers. In the middle of September extensive smuggling practices were unearthed that explained certain deficiencies in much-needed revenue, and that further seemed to implicate a number of supporters of the Whiteway government. A large number of arrests were made in connection with the matter in October. — **Financial policy in New South Wales** has attracted great attention both to itself and to its wider political results. A series of government measures which included an extreme free-trade tariff, with direct taxes on land and income to compensate for the abolished customs duties, was antagonized and defeated by the Legislative Council, or upper house, after passing the lower. Thus to the tariff and direct-tax issues was added that as to the power of an appointed upper house with life tenure to thwart the will of the popular representatives. On these questions the Reid ministry appealed to the electors and won a decisive victory, July 24. Bills were promptly brought in at the assembling of the new parliament, August 13, for carrying out the proposed financial policy. But at the end of October the upper house again produced a deadlock by refusing to accept a provision of the land-tax bill exempting from the tax land up to the unimproved value of £475. — In Indian affairs the leading question has been as to the retention of Chitral, the little mountain state lately conquered. The occupation of the kingdom had been undertaken for the purpose of punishing acts of

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hostility and aggression by the ruler, and the Indian government officially declared at the outset that there was no intention to make any permanent conquest. But when the British expedition had triumphed, a demand arose that the position should be held as an important element in the defense of India on the side of the Pamirs. Lord Rosebery's ministry determined, after consideration, to withdraw the troops, but this decision was not made public till July 5, after the change of government. On August 12 it was announced that Lord Salisbury had given orders that Chitral should not be abandoned, but that permanent garrisons should hold it and the road connecting it with India. — The delimitation of the Russian frontier in the Pamirs was completed in the middle of September by the joint commission to whom the work had been entrusted under the recent treaty.

FRANCE. — The **financial projects** of the Ribot ministry were set forth in the proposed budget for 1896, which was published in the middle of May. This estimated a deficit of 56,000,000 francs, which it was proposed to meet by remodeled succession duties, by increase in several of the old taxes, and by new taxes on house-servants, horses and carriages. The budget committee, as constituted by the Chamber May 21, was hostile to the government's plans and assumed an attitude which left little prospect of their ultimate adoption. The Chamber adopted in July a bill providing for an extensive rearrangement of the liquor taxes, and establishing a government monopoly of the trade in distilled spirits. The fate of this bill in the Senate is expected to have an important influence on the budget. — The acceptance of Germany's invitation to take part in the ceremonies at Kiel in June (see below, p. 750) was made the basis of attacks on the government by the Radicals. In replying to an interpellation, June 10, M. Hanotaux, the minister for foreign affairs, asserted that the acceptance was merely an act of politeness and signified no change of policy whatever. The August anniversary celebrations of the Germans also caused very bitter comment among all parties and classes in France. — All through the summer the slow progress of the campaign in Madagascar (see below, p. 753) was followed with great interest, and evidences of inadequate arrangements for taking care of the fever-stricken soldiers were the basis of severe attacks on the war ministry in even the more reputable newspapers. — The tariff war between France and Switzerland, which had resulted in very serious detriment to French commerce, was terminated by a compromise, June 25, in which France gave way to Switzerland's demand that some thirty articles of Swiss production should be admitted at rates below the minimum tariff. — **A cabinet crisis** followed closely upon the reassembling of the chambers, October 22. Dissensions and recriminations among the ministers in connection with the Madagascar expedition had seriously weakened the Ribot government, and attacks upon it by the Socialists and Radicals began promptly at the opening of the session. An interpellation by the Socialist Jaurès on the ministry's conduct in connection with a strike at Carmaux failed of decisive results. But on October 28 a motion of M. Rouanet,

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practically censuring the government for shielding politicians who were charged with complicity in corrupt operations of a railway syndicate, was carried, 310 to 211. A Radical cabinet was then formed under the leadership of M. Bourgeois, with Berthelot for foreign affairs, Cavaignac for war, and Lockroy for the marine. On November 4 M. Bourgeois formally outlined his policy to the Chamber. He promised a thorough investigation of the Southern Railway scandal, an earnest effort to pass the budget on time, and bills for a progressive succession tax, a general income tax, coöperative insurance, workingmen's pensions and a definitive settlement of the relations of state and church.

GERMANY. — The Reichstag was prorogued May 24, without having accomplished much besides routine business. The Prussian Landtag continued throughout its session to manifest on every occasion the hostility of the Agrarian Conservative majority to the government. Finance-Minister Miquel's taxation bills were seriously altered in this way. Both houses of the Landtag in May passed urgent resolutions calling upon the government to take steps looking toward international bimetallism. It was announced in June that the imperial government's inquiry among the various German governments had elicited opinions that rendered the calling of a monetary conference improbable. — On June 20 the new ship canal connecting the Baltic with the North Sea was formally opened with elaborate ceremonies. In response to invitations from the emperor a large fleet of war vessels of many nations, including Russia and even France, assembled at Kiel and took part in the festivities. — Throughout August all Germany was occupied in celebrating the twenty-fifth anniversary of the victories at the outset of the Franco-Prussian War, the festivities culminating with the "Sedan days" at the beginning of September. A discordant note in the general jubilation was the ostentatious refusal of the Socialists to take part, and this attitude on their part drew upon them sharp reproaches from the emperor. The latter was most energetic in heading celebrations, especially in the various divisions of the army; and both in a speech at a state dinner, September 2, and in a general rescript of thanks issued a little later, he used strong expressions against the Socialists, whom he referred to as those "unpatriotic enemies of the divine system of order in the world." — The Socialist Congress, which was held at Breslau October 7–12, revealed in general a high degree of union in the party, and a lack of any element that would point to a weakening of its forces in the near future.

AUSTRIA-HUNGARY. — The **fall of the Windischgrätz ministry** occurred June 18, in consequence of a vote of the lower house of the Reichsrath appropriating money for the teaching of the Slovene language in the high school at Cilli, in Styria. This vote caused the formal withdrawal of the German Liberals from the coalition on which the cabinet was founded. Other questions had already caused much friction between the ministerial parties, and the fall of the cabinet had been probable for some time. Its tax-reform bills had occasioned some discontent, which had

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become very pronounced upon the publication of its Electoral Reform Bill, June 4. This bill, like the first formulated by this ministry (see this RECORD for June, 1894, p. 370), provided for a fifth electoral *curia* for the workingmen, but extended the franchise to others than contributors to workingmen's insurance funds, and arranged details so as to favor the Conservatives and Poles rather more than the German Liberals in the distribution of the forty-seven new seats in the Reichsrath. After the retirement of Prince Windischgrätz the routine business of the summer was carried on by a temporary non-partisan cabinet, under the presidency of Count Kilmansegg. At the beginning of October a permanent ministry under Count Badeni assumed the conduct of affairs, resting for support mainly on the Polish party in the legislature, though claiming to be free from party affiliations. Count Badeni's declaration at the meeting of the Reichsrath, October 22, promised a new electoral bill and the necessary steps for renewing the constitutional adjustment between Austria and Hungary, which will soon expire. — The strength of the Anti-Semitic party in the municipal council and among the populace of Vienna gave rise at the end of May to considerable disturbances, on the occasion of the election of a burgomaster by the council. Dr. Lueger, a leading Anti-Semite, was elected, but declined to serve. Disorderly scenes within and without the council chamber led the ministry to dissolve the council and entrust the government of the city to a commissioner, assisted by an advisory committee. New elections in September resulted in the attainment of a two-thirds majority in the council by the Anti-Semites. The Clericals in Vienna supported the Anti-Semites, as a protest against the government's anti-clerical policy in Hungary. The Anti-Semitic leader has publicly denounced the Hungarian government as controlled by Jews. Dr. Lueger was again elected burgomaster by the new council, but the emperor refused, November 7, to approve the choice. — The Liberals in **Hungary** manifested great delight over the fall of Count Kalnoky (see last RECORD), regarding it as an evidence of imperial favor for their ecclesiastical policy. At the beginning of July the ordinances were issued for putting into operation the new civil-marriage and civil-registry laws. In conducting the civil-marriage ceremony and civil birth registry the administrative officials were instructed formally to notify the parties concerned that their duties to the church were not yet fulfilled. The Magyar language alone is allowed in the proceedings. The laws went into force October 1, with only some slight disturbances in a few rural districts, where the peasantry were incited by the priests to violence against the officials. On September 30 the lower house of the Diet at Pest adopted a compromise with the Magnates on the two remaining ecclesiastical bills, and the legislation was finally completed. — A change in the official title of the chief minister of the dual monarchy was recently made, by which his full designation became: Minister for Foreign Affairs and of the Imperial and Royal House. The change consisted in the insertion of the words "and Royal," which was

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understood to be a particular recognition of Hungary's equal position in the realm.

ITALY. — The general election, which began May 26, resulted in a great victory for the government. In the parliament that assembled June 10, Signor Crispi's supporters numbered 366 and the combined opposition only 155. Of the various opposition parties only the Socialists made gains in the elections. With its majority well in hand the ministry carried through successfully the routine work of the session. The financial situation was shown to have greatly improved, and the prospect of an equilibrium in the budget seemed more real than for some time in the past. — The proceedings instituted by Premier Crispi against Giolitti in the courts (see last RECORD) were checked by a decision that the controversy was solely in the jurisdiction of the Chamber. Charges of personal corruption brought against Crispi by Cavalotti, a Radical leader, also failed to gain a standing in court. — In the middle of September began the celebration of the twenty-fifth anniversary of the events that culminated in the occupation of Rome by the national army. Monuments to Garibaldi, Cavour and Minghetti were dedicated, as was a pillar to mark the point where the walls were breached for the entry of Victor Emmanuel's troops. Incidentally to the festivities the king proclaimed either full amnesty or a reduction of sentence for all the prisoners who were undergoing punishment for participation in the disturbances of a year ago in Sicily and Massa Carrara. The pope assumed an attitude of formal protest against this whole celebration. He had earlier renewed the prohibition upon the faithful against taking part in the elections. — A further unpleasantness in connection with the papacy was caused by the projected visit of King Carlos of Portugal to Rome. The pope announced that if the king visited King Humbert, the papal nuncio would be withdrawn from Portugal. Alleging the internal political complications that this would cause, King Carlos abandoned his purpose; whereupon the Italian government withdrew its minister from Lisbon, and severed diplomatic relations October 20.

MINOR EUROPEAN STATES. — The tension between **Norway and Sweden**, which was very threatening at the beginning of this RECORD, was relieved somewhat by a compromise resolution passed in the Norwegian Storthing June 7. This involved an understanding, on the one hand, that a ministry should be appointed which should harmonize with the condition of parties in the Storthing, and on the other, that this ministry should undertake to settle the difficulties with Sweden by negotiation. Further it was agreed that the basis of the negotiation should include, on the one side, the maintenance of the union between the kingdoms, and on the other, the establishment of a separate consular system and foreign ministry for Norway. This whole project was opposed by the extreme Radicals as conceding too much, but it passed the Storthing by 90 to 24, the moderates of the Left acting with the Conservatives to form the majority. A further step in the line of compromise was the adoption of the budget by the Storthing,

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including the diplomatic and consular appropriation which a year before had been voted on a condition which the king did not accept. The formation of a ministry in accordance with the plan of compromise was not effected till October 14, when a coalition cabinet, headed by Hagerup, was announced, in which the Conservatives, the Radicals and the Moderates were all represented. In September the Swedish government gave the necessary two years' notice of the termination of the treaty of navigation and commerce between the kingdoms, and thus raised a new set of questions to be treated in the forthcoming negotiations. — In **Belgium** the chief matters of interest during the legislative season were the protective tariff and the new school law which the clerical majority forced through. The latter project made religious instruction compulsory in the primary schools, and in general extended the influence of the ecclesiastical organization in public education. A bitter and demonstrative, but unavailing, opposition to the project was made by the Radicals and the Socialists. — A lurid light was thrown on the passions underlying **Bulgarian politics** by the assassination of M. Stamboloff, July 15, in the streets of Sofia. The ex-premier was literally hacked to pieces by the knives of the murderers, though he did not die till the 18th. A strong tendency was manifested by the European press to hold Prince Ferdinand, who at the time was in Carlsbad, morally responsible for the hideous deed. The funeral of the murdered statesman was attended by some disturbances created by his implacable adversaries. The assassins have not yet been brought to justice. The pro-Russian, and therefore anti-Turkish, policy of the government has been made clear in various ways. The Macedonian agitation (see *ante*, p. 746) is said to have been connived at by the Bulgarian government. A deputation headed by the Bulgarian Metropolitan, Clement, visited St. Petersburg in July to lay a wreath on the tomb of the late czar, and incidentally to do what they could to secure the recognition of Prince Ferdinand by the Russian government. The Metropolitan claimed that great results had been attained by the deputation, but a semi-official statement was issued in St. Petersburg, August 1, declaring that the czar would never recognize Prince Ferdinand. It was reported in October that the ministry had urged the prince to have his infant son Boris baptized in the orthodox faith, to make him more acceptable to Russia. The address to the Sobranje, October 31, did not contain the expected announcement of this ceremony, though it abounded in friendly references to Russia. — A change of ministry in **Servia** in July, through which the Progressists, represented by M. Novakovitch, came into power, was considered to foreshadow an approaching reconciliation between the king and the Radicals, and the transfer of power to the latter, who have in their ranks an undoubted majority of the Servian people.

AFRICA. — The French **conquest of Madagascar** was completed by the occupation of the Hova capital, Antananarivo, September 27. General Duchesne's expedition spent almost six months in covering the 370 miles between the coast and the capital. The military resistance of the Hovas

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was of the slightest; the lack of roads in a very difficult country, and the deadly climate of the lowlands, were the chief causes of the delay, though serious charges of mismanagement in respect to supplies and hospital service were brought against the ministry of war. Upon the occupation of the capital the queen accepted by treaty the full protectorate of the French. — On the ground that the king of Ashanti, by continuing the practice of human sacrifices, was violating a treaty, the British government demanded that a British protectorate should be recognized. On the refusal of the king to agree to this, at the end of October an expedition was prepared to go to the capital, Coomassie, and enforce the demand. — In July a German fleet, appearing at Tangiers, exacted from the government of Morocco reparation for the murder of German subjects by the natives. The French press manifested some resentment at Germany's proceedings in this affair. — From the Congo State came a report in June of an important victory over the Mahdists in the equatorial region. The execution of a British trader and ex-missionary named Stokes by an officer of the Congo State, on the charge of selling arms and ammunition to the natives, caused much criticism in Great Britain. It was claimed that the proceedings in the case were very irregular, and the evidence insufficient. — The Italian government has announced its resolute purpose to maintain and strengthen its position in Abyssinia. The announcement was prompted by a Russian mission to King Menelik in June for the alleged purpose of "bringing the Russian and Abyssinian churches closer together." It was reported on the 21st of October that King Menelik had been killed by lightning. At the end of the RECORD the Italian General Baratieri was engaged in operations that seemed likely to involve the conquest of the whole of Abyssinia.

THE ORIENT. — The final adjustments following the conclusion of the war with Japan have brought interesting developments as to the relations between **China and Russia**. In connection with the payment of the first installment of the war indemnity to Japan (the total was $160,000,000) China issued a loan of $77,200,000, of which the Russian government undertook a formal guarantee. The money was obtained, however, through French bankers, and the interest is secured by the Chinese customs duties. The terms of the undertaking were officially announced by a Russian imperial ukase of July 7, but the affair had been widely known and discussed before, and much speculation had been indulged in by the press as to the motives of Russia's action. In Japan a very strong anti-Russian feeling has been manifested in various ways. Just at the close of this RECORD it was announced that a treaty had been concluded between Japan and China, in which the latter agreed to pay an additional indemnity of 30,000,000 taels, upon receipt of which the former should fulfil her agreement to evacuate the Liao-Tung peninsula. A report from Hongkong in the last week of October that China had conceded to Russia the use of Port Arthur as a naval station and the right to connect the place by rail

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with Siberia, gave rise to very earnest protests in the British press against the aspirations of Russia on the Pacific coast. The continental press in general expressed satisfaction at the apparent advantage that Russia had obtained over Great Britain and at the diplomatic isolation of the latter. The report was later officially declared baseless. — A fresh series of **outrages on missionaries in China** began in May and continued through the summer. The regions especially concerned were the provinces of Szechuen and Tokien. Beginning with the looting and burning of an American station at Chengtu in May, the disturbances culminated in the slaughter of nearly a dozen British subjects at Kucheng on the first of August. The imperial authorities at Pekin professed entire readiness to ferret out and punish the perpetrators of the deeds, but the conduct of the local officials indicated indifference to the outrages, if not actual connivance therein. At the end of September the British government peremptorily demanded of China the prompt and public degradation of the viceroy of Szechuen and his subordinates for failing to protect the missionaries, accompanying the demand with a naval demonstration on the Yang-Tse-Kiang. The Chinese government at once complied with the terms of the ultimatum. A large number of persons have been executed for complicity in the Kucheng massacre, and a commission of American officials is engaged in an investigation of the earlier but less serious affair at Chengtu.

LATIN AMERICA. — The Cuban insurrection has assumed very serious proportions during the six months under review. Despite the vigilance of the Spanish cruisers and of the American authorities, considerable supplies of men and munitions seem to have made their way from the United States to the rebels, and many recruits have been gained from the population of the island. While the important towns of the coast and inland have been retained by the Spanish troops, the country regions of the interior seem to have been overrun by the insurgents, moving from the east westward, throughout fully two-thirds of the island. General Martinez Campos has found himself obliged to make heavy demands on the home government for reënforcements, but the responses have indicated a resolution to subdue the insurgents at any outlay of money and men. By the end of August the Spanish forces in the island amounted to 80,000 men, and more were promised in case of necessity. The fighting during the summer was of a desultory character, the insurgents generally avoiding set battles, but keeping up guerrilla practices. On May 20 one of the principal leaders of the insurgents, José Marti, was killed in a skirmish. In midsummer the insurgents announced the organization of a provisional government, which was succeeded, September 22, by a permanent republican government, with Salvador Cisneros, formerly Marquis de Santa Lucia, as president. The seat of government was Najasa. In October it was announced at Madrid that Martinez Campos would begin in November a general systematic movement to crush the rebellion. The whole island will then be surrounded by a cordon of war ships, and the land forces, in a

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line extending across the island, will move eastward, sweeping the rebels before it into their fastnesses in the mountains of the eastern province, where they will be hemmed in and finally disposed of. — Renewed attention was attracted to the boundary dispute between **Great Britain and Venezuela** by the statement in the English press, October 19, that the British government had sent an ultimatum to Venezuela demanding reparation for the arrest of British officers last January at Uruan, a point within the territory in dispute, and declaring what terms would be granted in the settlement of the boundary question. — The discovery in July that Great Britain had formally occupied, as a cable station, the little desert island of Trinidad, 500 miles off the coast of **Brazil**, gave rise to a strong popular feeling in the latter country and led to a diplomatic correspondence in which the proprietary claims of Brazil to the island were established. General and Ex-President Floriano Peixoto died June 29. — The idea of **Central American confederation** was taken up anew at a conference held at Amapala, Honduras, about June 20. It had been designed to have the presidents of all five of the republics present, but only three appeared, namely, Gutierrez of Salvador, Bonilla of Honduras, and Zelaya of Nicaragua. The consultation of the three resulted in a scheme of loose confederation, in which a central diet is to have charge of foreign relations and of differences among the component states. The scheme is subject to ratification by the legislatures of the states concerned, and is arranged with reference to the entrance of Guatemala and Costa Rica also into the confederation.

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